



Appeal Decision

Site visit made on 10 April 2025

By P Barton BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th June 2025

Appeal Ref: APP/Z5630/W/24/3351749

15 Avenue South, Surbiton, Kingston Upon Thames KT5 8PJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Robert & Trudi Hill against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref is 24/00106/FUL.
 - The development proposed is demolition of existing garage and erection of a two storey house (ground and partial lower ground floor), with alterations to existing property to improve access and garden areas.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published a revised National Planning Policy Framework (the Framework) on 12 December 2024 with a further minor revision on 7 February 2025. The main parties were given an opportunity to comment, and the comments received have been taken into account in the determination of the appeal.
3. The appellants have submitted additional plans¹ illustrating the windows to be retained and removed on the east elevation of No. 15 Avenue South, as well as a cross section showing the midpoint of the kitchen window to the upper ground floor flat at No. 15. These plans do not involve a substantial difference or fundamental change, and the Council have been given the opportunity to comment on them. Whilst the plans have not been subject to public consultation, I am satisfied that it would not cause unlawful procedural unfairness to anyone involved in the appeal. As such, I have considered these plans in making my decision.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the surrounding area;
 - the effect of the proposed development on the living conditions of the occupiers of Nos. 15 and 17 Avenue South, with particular reference to daylight, sunlight, sense of enclosure and outlook;

¹ Drawing Nos. 09 Rev A and 10 Rev A

- whether the proposed development would provide acceptable living conditions for future occupiers, with regard to outlook, privacy, sunlight and daylight; and
- the effect of the proposed development on land stability and groundwater flows.

Reasons

Character and appearance

5. 15 Avenue South is a detached 3-storey property that has accommodation over 4 floors and is subdivided into flats. It occupies a corner plot at the junction between Avenue South and The Avenue. To the east of the appeal site are a number of detached 2.5 and 3-storey properties, up to the junction with Manor Drive, some of which have also been subdivided into smaller units of residential accommodation. Elsewhere on Avenue South, properties generally consist of more modest detached 2-storey houses that appear to be occupied as single households.
6. Large detached 2, 3 and 4-storey buildings which have predominantly been subdivided into flats, or similar, or are purpose built flatted developments, dominate the southern section of The Avenue. A noticeable exception, within the immediate surroundings of the appeal site, is a terrace of four, post-war, 3-storey townhouses that are located on the opposite side of The Avenue.
7. The width of the plots, and the width, scale and height of the properties upon them along Avenue South and The Avenue, make a significant contribution to the overall character and appearance of the area.
8. Many of the properties on Avenue South have subordinate elements to the side in the form of extensions or garages. The proposed house would replace the existing detached, single storey garage to the side of No.15. Considerably smaller on its narrow plot than the donor property and significantly shorter in height, the proposed house would appear as a cramped and contrived addition to the street scene, in stark contrast with the surrounding larger properties and their associated wider plots. The harm identified would not be outweighed by the benefit of an improved frontage and removal of the external staircase, nor would it be overcome by the use of attractive louvres on the elevations of the proposed dwelling.
9. Collectively the block of four terraced houses on the opposite side of The Avenue have a similar scale and height to the other buildings on that road, though I recognise that individually they have narrow plots. However, this arrangement is most noticeable from The Avenue and not Avenue South. Moreover, the prevailing character of Avenue South, which the new house would face and relate to, consists of detached buildings within wide plots.
10. For the above reasons, the proposed development would be harmful to the character and appearance of the surrounding area. This would conflict with Policies CS8 and DM10 of the Royal Borough of Kingston Upon Thames Local Development Framework Core Strategy (the Core Strategy). Together, these policies require, amongst other things, the respect, maintenance or enhancement of the most essential elements identified as contributing to the character and local distinctiveness of a street or area, including scale, height, plot width and format which includes spaces between buildings.

Living Conditions of occupiers of Nos. 15 and 17 Avenue South

11. There are a number of existing windows to the east elevation of No. 15. Due to the height of the proposed house, only those windows to the lower ground floor and upper ground floor would be affected by the proposal. Small secondary windows serving bedrooms to both floors would be blocked up with the larger south-facing primary windows remaining.
12. The proposal includes a modest infill extension to the kitchen to the lower ground floor flat. The current kitchen window would be relocated to the east elevation, from its current position in the north elevation, with a small light well, that faces a boundary fence and beyond that, the side elevation of a modern 4-storey flatted development. The proposed floor plan shows the relocation of this window to the side elevation facing the proposed house, though this is not shown on the proposed side elevation. From my own observations on site, and an appraisal of the plans, I find that the proposed arrangement to this existing kitchen would be materially worse than the current situation in terms of outlook, daylight and sense of enclosure. The new window would be closer to the side elevation of the proposed house than the current window is to the boundary fence and flatted development beyond, it would also be partially enclosed by the new staircase above.
13. An existing kitchen window to the upper ground floor flat at No. 15 is also located on the east elevation and is shown on the additional plans submitted with the appeal, but is not shown on the proposed floor plans. The submitted cross-section plan, which has not been challenged by the Council, shows the positioning of the mid-point to this kitchen window above the highest part of the existing garage. The proposed house would be located closer to this window and at a greater height than the existing garage. Consequently, this would adversely impact upon living conditions in terms of outlook and sense of enclosure.
14. No.17 has a number of windows to the west elevation of the ground floor, including a large window marked as *studio* on the submitted plans. The Daylight, Sunlight & Overshadowing Assessment² (the Assessment) indicates that this is a window to a habitable room. The proposal would replace the existing garage along the common boundary and at the point where the new house faces this window it would be marginally higher with a pitched roof above, sloping away from the boundary. Consequently, this arrangement would not result in the proposal materially harming the outlook or increasing the degree of enclosure currently experienced by occupiers of No. 17.
15. Whilst I have found that the proposal would not cause a material adverse impact on the living conditions of the occupiers of No. 17, I have identified harm on the living conditions of the occupiers of the lower ground floor and upper ground floor flats at No. 15 with particular reference to daylight, sense of enclosure and outlook. This conflicts with Policy DM10 of the Core Strategy, which amongst other things, requires new development to have regard to the amenities of neighbours, including in terms of outlook and daylight.
16. The Council's decision notice refers to Policy CS8 of the Core Strategy on this matter. However, this policy relates to character, design and heritage. The

² Daylight, Sunlight & Overshadowing Assessment March 2023

proposed development would not conflict with this policy in relation to the living conditions of the occupiers of Nos. 15 and 17.

Living conditions for future occupiers

17. The proposed house would, in essence, be single aspect with an outlook facing Avenue South, serving a bedroom to the lower ground floor and the lounge to the upper ground floor. These south-facing, full height windows would have timber louvres to provide privacy at night and shading during the day. There would also be a generous light well to the bedroom.
18. A further bedroom would be positioned to the rear of the lower ground floor and the kitchen/dining area to the rear of the upper ground floor. These rooms would not have external windows to the boundary walls and instead would have full height glazing looking onto an internal courtyard. The kitchen/dining room would also have a strip of glazing within the roof, running parallel to the common boundary with No. 17.
19. Whilst the Assessment related to a different scheme to that before me, it shares sufficient similarities to help inform my assessment. The key differences between the proposed house in the Assessment and that before me are the removal of a guest study above the lounge, the replacement of bay windows to the front elevation with flush windows, and a larger light well to the front of the lower ground floor.
20. The Assessment concludes that the internal spaces of the proposed house would all comfortably achieve acceptable daylight, and the Council have not directly challenged these findings. From my own appraisal and in the absence of any contrary evidence before me, I have come to the same conclusion as the Assessment.
21. The south facing, full height windows would also provide sufficient outlook and sunlight. The proposed internal arrangement with the rear bedroom and kitchen/dining area facing onto an internal courtyard is less conventional and would limit outlook and sunlight to these areas. Notwithstanding that, I am satisfied that the proposed house has been suitably designed to provide an overall acceptable level of outlook, daylight and sunlight.
22. The proposed garden would be set behind the off-street parking space and not positioned to the back of the pavement. The means of enclosure to the garden are not detailed, though the plans indicate hedge planting, or similar. I am satisfied that such matters could be dealt with via planning conditions requiring full details of boundary treatment and landscaping to be provided. Such conditions could be imposed were the appeal to be allowed. As such, I consider an appropriate level of privacy to the garden would be provided.
23. I conclude that the proposal would provide acceptable living conditions for future occupiers, with regard to outlook, privacy, daylight and sunlight. This would accord with Policies DM10 and DM13 of the Core Strategy and Policy D6 of the London Plan, which seek high quality design that has regard to the amenities of occupants in terms of privacy, outlook, sunlight and daylight.

Land stability and groundwater flow

24. The proposed lower ground floor would create a useable area to the new house situated partly below ground level. Consequently, the creation of a lower ground floor in such proximity to existing nearby buildings could undermine them. Moreover, the proposal may disrupt existing groundwater flows, resulting in an increased risk of flooding either within the site or elsewhere. Therefore, on the basis of the evidence before me, I cannot conclude with reasonable certainty that the proposal would not adversely impact upon land stability or groundwater flows. Insufficient details have been provided to address this matter, and as investigation results into these matters could necessitate a re-design of the scheme, I am not satisfied that this matter could be addressed by the use of conditions.
25. Accordingly, the proposal would not comply with Policies CS2 and DM4 of the Core Strategy, which require developments to take into consideration, amongst other things, subsidence and flood risk.

Other Matters

26. The appellant refers to pre-application discussions with the Council. However, I am mindful that such discussions are informal and not binding on any future decision the Council may make once a proposal has been subject to the formal planning process.

Planning Balance

27. The Council have confirmed that they have a deliverable housing land supply of 1.48 years and, as per footnote 8 to paragraph 11 of the Framework, relevant development plan policies are taken to be out of date. Therefore paragraph 11 d) of the Framework identifies that planning permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
28. The proposed development would make a positive contribution to housing supply, would be a self-build dwelling, and located within an established residential area. There would also be associated social and economic benefits during the period of construction and once the house is occupied. Moreover, the proposal includes a new access for the existing flats at No. 15, and the removal of the existing steps and garage from the site. Within the grounds, there would also be a reconfiguration of the outdoor amenity space including the provision of bin and cycle storage, and a new pedestrian access to The Avenue.
29. Compliance with the development plan on matters of water usage, drainage and energy use, as well as the provision of an electric vehicle charging point, and bird and bat boxes, would all have a neutral impact on the planning balance.
30. I acknowledge that the proposal did not generate any objections from neighbours and a representation in support of the application was received by the Council. Nevertheless, I must consider the appeal based on its merits and in accordance with the development plan.
31. The limited scale of the development means that I afford the provision of a new house within the context of the current shortfall, along with the other benefits listed above, moderate weight in favour of the proposed development.
32. On the other side of the balance, there would be harm to the character and appearance of the surrounding area and the living conditions of the occupiers of

the lower ground floor and upper ground floor flats at No. 15, as well as a risk to land stability and flooding. I give significant weight to the conflict with Policies CS8 and DM10 of the Core Strategy, which are consistent with the Framework in ensuring that development is sympathetic to local character and the creation of a high standard of amenity for existing users. I also give significant weight to the conflict with Policies CS2 and DM4 of the Core Strategy, which is consistent with the Framework which seeks to prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of land instability, as well as ensuring development is made safe from flooding for its lifetime without increasing flood risk elsewhere.

33. Therefore, I conclude that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As such, the presumption in favour of sustainable development set out in paragraph 11 d) of the Framework does not apply.

Conclusion

34. The proposal conflicts with the development plan as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

P Barton

INSPECTOR