



Appeal Decision

Hearing held on 20 May 2025

Site visit made on 20 May 2025

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2025

Appeal Ref: APP/Z5630/W/24/3350183

**Hobkirk House, 109 Blagdon Road, New Malden, Kingston Upon Thames
KT3 4BD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr R Patel of RAA7 LTD against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref is 24/00668/OUT.
 - The development proposed was described as 'Outline planning permission is sought for demolition of vacant former car home and erection of a part 4 and part 5 storey building with basement parking housing a mix of 36 dwellings with associated bins & cycle provision and re-siting of access. (Landscaping reserve matters)'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An outline planning application was made. Landscaping is the only reserved matter for future consideration.
3. Based on the responses to my pre-hearing note and discussions during the hearing, the plans which would form the basis of any planning permission are: BR-AP1-101, BR-AP1-107, BR-AP1-108, BR-AP1-109, BR-AP1-110, BR-AP1-111, BR-AP1-112, BR-AP1-113, BR-AP1-114, BR-AP1-115, BR-AP1-116, BR-AP1-117, BR-AP1-118, BR-AP1-119, BR-AP1-120, BR-AP1-121, BR-AP1-122, BR-AP1-123, BR-AP1-124, BR-AP1-125, BR-AP1-126, BR-AP1-127, BR-AP1-128, BR-AP1-129, BR-AP1-130, and the plan titled selection of facing materials. I have had regard to the other plans that have been provided, but only insofar as they show how the development could potentially be delivered.
4. The appeal is progressed on the basis that 19 wheelchair accessible flats would be provided.

Main Issues

5. The main issues are
 - whether the proposed development would make adequate provision for affordable housing;
 - the effect of the development on the character and appearance of the area;

- the effect of the development on the conditions of the users of neighbouring properties, with particular regard to outlook and privacy; and
- if conflict with the development plan would arise, whether any such conflict would be outweighed by material considerations.

Reasons

Affordable housing

6. The scheme does not include any on-site affordable housing units. Nor is it proposed that a financial contribution be made towards the provision of off-site affordable housing.
7. Policy DM15 of the Council's Core Strategy¹ confirms that the delivery of affordable housing is a key priority and that the Council will seek to maximise its provision. Policy H5 of the London Plan sets out a threshold approach for affordable housing provision. However, in circumstances where the application would not accord with the threshold requirements set out within earlier parts of the policy, part F requires that a viability tested route be followed. This is to enable the decision maker to scrutinise the information to ascertain the maximum level of affordable housing that could be provided.
8. To ensure that affordable housing provision is maximised, scrutiny of resultant viability assessments is also supported in both existing and emerging supplementary planning guidance documents². Moreover, paragraphs 3.6.2 and 3.6.4 of the Mayor of London's emerging development viability guidance³ indicate that different design options should be tested to ensure that the provision of onsite affordable housing is maximised and viability optimised, and, that schemes should exclude elements that do not make a positive contribution to viability unless required for other planning reasons.
9. As the scheme would not accord with thresholds set out within London Plan policy H5, it is appropriate to use the viability-tested route to ascertain the appropriate affordable housing requirement. During the hearing, the main parties agreed that the provision of a financial contribution towards affordable housing would currently make the scheme, which includes a basement, unviable. Notwithstanding the appellant's informal offer to the Council to make a £100,000 contribution towards affordable housing, I have no reason to reach another view and proceed accordingly.
10. Most of the basement would be used for car parking purposes. However, amongst other things, policies T6 and T6.1 of the London Plan state that car-free development should be the starting point for all development proposals in places that are well connected by public transport, and, that the provision of car parking should not be a reason for reducing the level of affordable housing in a proposed development.
11. The site has a moderate public transport accessibility level, and the proposed parking provision would not exceed the maximum levels set out in London Plan policy T6.1. However, from the site, safe access can be secured to both bus stops

¹ Royal Borough of Kingston Upon Thames – Local Development Framework – Core Strategy – adopted April 2012

² Mayor of London – Homes for Londoners – Affordable Housing and Viability Supplementary Planning Guidance 2017, and Mayor of London – London Plan Guidance – Development Viability – Consultation Draft May 2023.

³ Mayor of London – London Plan Guidance – Development Viability – Consultation Draft May 2023.

and a train station, all of which are within reasonable walking distance. As such, I am not satisfied that there is a planning need for the proposed level of on-site car parking or for the provision of a basement.

12. Notwithstanding the disagreement between the main parties regarding the anticipated costs for the provision of the basement, the omission of this element of the scheme would undoubtedly result in a substantial cost-saving. Consequently, I cannot conclude that reasonable measures have been taken to maximise the affordable housing contribution that could viably be provided. Moreover, because securing affordable housing is a key priority of the Council, substantial harm would be caused by the failure of the scheme to contribute towards its provision.
13. For the reasons set out above, the proposed development would fail to ensure adequate provision of affordable housing. As such, the scheme would conflict with London Plan policy H5 and Core Strategy policy DM 15.

Conditions of users of neighbouring properties

14. The Council verbally confirmed its concerns relate to the living conditions of the occupiers of 111 Blagdon Road (no. 111), and to the conditions of the users of the nearby school. I proceed on this basis.
15. The inclusion and subsequent retention of privacy screening to parts of the balconies close to the eastern site boundary could be secured by condition. This would ensure that occupiers of no 111 would be able to retain a reasonable degree of privacy at times when these nearby balconies would be in use. Furthermore, and due to either the distance or the oblique angle between habitable room windows in the proposed development and the house and rear garden of no 111, the scheme would not result in a harmful loss of privacy to the users of this neighbouring property either in their house or garden.
16. A sizable strip of land separates the appeal site from the grounds of the school beyond. During the hearing, I was advised that this land was subject of an undetermined planning application which amongst other things, sought permission for its use as a school playing field. This application⁴ has subsequently been approved and a copy of the associated decision notice has been provided. While the granting of planning permission does not guarantee that the development authorised by it will take place, I proceed on the basis that it could.
17. Many of the windows in the south-facing elevation of the proposed building would be either high-level or obscure glazed. However, through several bedroom windows close to the shared boundary between the appeal site and neighbouring land to the south, clear views into the neighbouring land and the school grounds beyond would be possible. During the hearing, the appellant verbally agreed that these bedroom windows could be required to be obscurely glazed. This would ensure that users of the existing and the potential future school grounds would not be closely or harmfully overlooked. Consequently, and while the separation distances between the proposed development and nearby land and buildings would not always accord with the 'in general' standards set out within policy guidance 16 of the Council's residential design SPD⁵, users of the nearby school and occupiers of no 111 would be able to retain adequate conditions with particular regard to privacy.

⁴ Application no: 25/00267/KPSID

⁵ Royal Borough of Kingston Upon Thames – Local Development Framework – Residential Design SPD – adopted July 2013 (amended November 2013)

18. The playing/sports field is the closest part of the nearby school to the appeal site. This area would become even larger if the previously cited planning permission were to be implemented. Even though the 4 and 5-storey high building would be constructed close to the southern boundary of the site, users of the school would continue to be able to enjoy a spacious and open outlook over this sizable playing/sports field and above the proposed development.
19. The high visually impenetrable fence on the shared boundary between the appeal site and the house at no 111 is very close to the side of the house, and it severely restricts the quality of the outlook available through any ground-floor level windows that face it. Furthermore, the first and second-floor windows in this flank wall of the house were observed to be obscurely glazed. As such, and even though parts of the proposed building would be close to these windows, the development would not harmfully reduce the quality of the outlook from within this neighbouring house.
20. In addition to the boundary fences, there are also several tall and well-established plants/trees within the rear garden of no 111. These serve to restrict the outlook beyond the rear garden of this property. Furthermore, the part of the appeal site that is adjacent to the rear garden of no. 111 would be occupied by an open driveway and a reasonably sized landscaped area. For these reasons, and despite the height and scale of the proposed building, the development would not result in a harmful reduction in the quality of the outlook available to the users of this neighbouring garden.
21. For the reasons given above, the development would not cause harm to the conditions of the users of neighbouring properties, with particular regard to outlook and privacy. Consequently, it would comply with policy DM 10 of the Core Strategy. Amongst other things, this seeks to ensure that development ensures adequate private and/or communal amenity space and has regard to the amenities of neighbours.

Character and appearance

22. When approaching and passing the appeal site on Blagdon Road, the often sizable 'street trees' alongside the road, are a distinctive feature that makes a significant positive contribution to the character and appearance of the area.
23. However, the large and vacant main building on the appeal site has markedly scale, siting and design, from the mainly 2-storey, pitched-roofed semi-detached and terraced houses that prevail to the east of the site and on the opposite side of Blagdon Road. In part, this is because it is set further back from the road than other nearby properties. Furthermore, and due to the amount and form of built development on the site, it also has a very different character and appearance from the sizable, open and verdant park it is adjacent to. At best, the appeal site which separates these 2 distinct areas, makes a neutral contribution to the wider character and appearance of the area.
24. The distance between the proposed building and the rear of the adjacent pavement would be generally consistent with that between nearby houses and the pavement. Also, the length of the building frontage that would address Blagdon Road would not be incongruous with that of the nearby terraces.
25. Although the main building would be taller than the closest nearby dwellings, the inclusion of flat roofs would minimise its overall height, and, the lower 4-storey

sections would be closest to the house at no 111. With particular regard to height, no harmful juxtaposition between the appeal scheme and nearby buildings would therefore result.

26. Furthermore, when viewed from Blagdon Road; the adjacent park; and nearby dwellings, the trees and plants close to the site boundaries would serve to interrupt and break up views of the whole of the proposed building.
27. The inclusion of features including stepped returns; entrance features; balconies; a multi-level roof; and a range of bricks, render and panelling, would not only add interest to the building, they would also break up its massing and prevent it from being unduly prominent.
28. As such, and although the development would not duplicate the distinctive characteristics of the land and buildings it would be adjacent to, it would not cause harm to the character and appearance of the area. Consequently, it would comply with policies D3 of the London Plan and policies CS8 and DM10 of the Core Strategy. Amongst other things, these collectively require development to; make the best use of land by following a design-led approach that optimises capacity; positively respond to local distinctiveness; and relate well to its surroundings.
29. On the basis that the appeal site does not contain any heritage assets and it would not affect the significance of any identified heritage assets, there would be no conflict with policy DM12 of the Core Strategy.

Planning balance

30. The main parties agree that the borough has a 1.48-year supply of supply of deliverable housing sites. This represents an acute shortfall. That being the case, great weight is attributed to the contribution that 36 dwellings would make to reducing this shortfall.
31. Economic benefits arising during the construction phase would be short-term, these attract small weight. Many of the dwellings would have 3 bedrooms and be suitable for family occupation. Future occupiers of the development would also have good access to a range of local services and facilities - which they would be likely to use and contribute to the ongoing support of. In addition, a high proportion of the dwellings would be accessible by wheelchair, and future occupiers of the scheme would be able to secure good living conditions. The development would also improve the biodiversity value of the site. However, due to the relatively modest scale of the appeal scheme, the associated benefits can be attributed only moderate weight.
32. That the development would not cause harm to the character and appearance of the area or to the conditions of the users of users of neighbouring properties, with particular regard to outlook and privacy, are neutral considerations.
33. Nevertheless, the development would conflict with those policies of the development plan which together, seek to ensure that affordable housing provision is maximised. As such, and notwithstanding my previous considerations, the development would conflict with the development plan as a whole. I attribute substantial weight to the harm that would be caused by this.
34. Because the Council cannot demonstrate a 5-year housing land supply, paragraph 11. d) of the National Planning Policy Framework (the Framework) applies. In this

case, the application of policies in the Framework that protect areas or assets of importance, as identified at footnote 7, do not provide a strong reason for refusing the development. Therefore, paragraph 11. d) ii. is engaged.

35. The proposal aligns with the parts of the Framework that seek to significantly boost the supply of homes. Furthermore, paragraph 73 of the Framework indicates that small and medium-sized sites can make an important contribution towards meeting the housing requirement of an area. The development would also accord with those parts of the Framework that seek to ensure the ongoing vitality of centres and the reuse of brownfield land within settlements for homes. However, given both the scale of the scheme, and the level of harm that would be caused by the failure to make adequate provision for affordable housing, these considerations each attract only moderate weight.
36. Notwithstanding the above, the development would be contrary to a key policy within the Framework to provide affordable homes. Given the harm that would result from the failure of the development to make adequate provision for affordable housing, this conflict with the Framework attracts substantial weight.
37. Consequently, I find that the adverse impacts of granting permission for the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal does not therefore benefit from the presumption in favour of sustainable development.

Conclusion

38. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. I therefore conclude that this appeal should be dismissed.

V Simpson

INSPECTOR

Appearances

FOR THE APPELLANT:

Mr R Patel	RAA Planning (Appellant and Agent)
Mr H Wagjani	Architect

FOR THE LOCAL PLANNING AUTHORITY:

Miss L Bennett	Kingston Upon Thames Borough Council
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INTERESTED PARTIES:

Cllr. L Heap	Miss H Redd
Mr J McCarthy	Mr L Castillo
Mr D Ballard	Mrs B Castillo
Dr L Meerabeau	Mr F Mason
Mr Z Blonski	Mr R Adler