



Appeal Decision

Site visit made on 8 July 2025

by **P Terceiro BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 July 2025

Appeal Ref: APP/Z5630/W/24/3355206

39-41 Surbiton Road, Kingston Upon Thames, London KT1 2HG

- 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 Mr Ezzat Khayat (KPG London Ltd) against the decision of Royal Borough of Kingston Upon Thames.
 - The application Ref is 24/00685/FUL.
 - The development proposed is the erection of top floor to create 2nos 2bed apartments (Use Class C3) at 39 Surbiton Road. Conversion of the existing first and second floor flat to 2nos separate flats comprise of 1 bedroom flat each (Use Class C3) at 41 Surbiton Rd.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has advised that they no longer wish to pursue the conversion of the existing first and second floor flat to create two separate flats. The Procedural Guide for Planning Appeals¹ is clear that the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority (LPA), and on which interested people's views were sought.
3. In light of the above, not considering part of the proposal in my assessment would give rise to a fundamentally different scheme to what was considered by the LPA when it made its decision. Therefore, in the interests of fairness, this appeal must be determined based on the plans on which the LPA made its decision, and which have been subject to consultation. To do otherwise would unacceptably prejudice the interests of other parties who may not be fully aware that the appeal proposal would be different to that originally put forward. For this reason, I have determined the appeal using the plans that were considered by the LPA in their assessment.
4. The fourth reason for refusal relates the absence of a planning obligation to secure car free housing. A completed unilateral undertaking (UU) has been submitted during the appeal process. The Council has confirmed that it is satisfied with the UU provided. I shall return to this matter later.

¹ Procedural Guide: Planning Appeals – England 2025

Main Issues

5. The main issues are:

- the effect of the proposed development on the character and appearance of the host building and of the area, including its effect on the significance of the non-designated heritage assets (NDHAs);
- whether acceptable living conditions would be created for future occupiers with particular regard to internal space and external space;
- whether the proposal would provide an appropriate mix of housing; and
- whether an appropriate level of cycle parking would be provided.

Reasons

Character and appearance

6. The appeal site comprises two distinctive three storey plus basement end of terrace buildings situated near the junction of Southsea Road and Surbiton Road. Given their location, the buildings are visually prominent and attractive landmarks. The appeal buildings are identified by the Council as Buildings of Townscape Merit and are NDHAs. Their significance derives, in part, from their townscape, architectural and historical interest.
7. The adjacent row of properties is also a NDHA. These buildings are three storey, generally with commercial uses at ground floor. Their significance derives, in part, from their similar design with prominent chimneys and different coloured external finishes. The terrace opposite is two-storey also with commercial uses at ground floor and displays a mock Tudor design. There is a variety of uses within the vicinity, including residential.
8. The proposal seeks to construct an extension above the top floor of 39 Surbiton Road (No 39), which is the corner building. The extension would not follow the chamfered line of the façade, rather it would angle away from it, particularly in the front elevation. The angled set back from the façade would result in a development with an awkward form and layout, that would appear disjoint and would not successfully integrate with its host.
9. In terms of external design, the proposal would have a contemporary appearance and display large windows with fins. While this would to some extent assist in breaking up the mass of the proposal, the design would fail to respect the rhythm of the fenestration below. While suitable materials could be secured by condition, were I minded allowing the appeal, this would not overcome the identified harm.
10. For the above reasons, in my judgement the proposal would fail to respect the identity of its host, thereby harming its significance. Given the prominent location of No 39, the proposal would be visible from public vantage points and while the form of the existing building would remain, the proposal would appear incongruous because of its design, form and layout. Thus, the development would undermine the distinctive character and significance of the adjacent row of terraces as a NDHA.

11. Thus, the proposal would have a harmful effect on the character and appearance of the host building and of the area, including on the significance of the NDHAs, contrary to Policies D3 and HC1 of the London Plan 2021 (LP) and to Policies CS8, DM10, DM11 and DM12 of the Core Strategy 2012 (CS). Amongst other things, these policies support development that incorporates principles of good design, enhances local context by delivering buildings that positively respond to local distinctiveness through their layout, conserves the significance of heritage assets and seek to protect areas of historic interest from inappropriate development.

Living conditions

Internal space

12. The proposal seeks to convert the existing first and second floor flat to two separate flats. The submitted Design & Access and Planning Policy Statement advises that flat C at first floor would be a one person flat but provides little detail regarding flat D at second floor.
13. However, the submitted plans show a double bed within the bedroom of each flat and indicate that the bedroom within Flat C would measure roughly 2.75m in width. Consequently, it would meet the minimum width dimension of a double bedroom as set out within the Nationally Described Space Standards 2015 ('the standards').
14. Given the above, and in the absence of compelling evidence to demonstrate otherwise, I find that each bedroom would be capable of accommodating two people. Therefore, I have assessed the proposed flats C and D as being a 1-bedroom, 2-person unit. For flats of this type, the standards prescribe a gross internal area of 50m². With an internal area of some 37m², both units would fall appreciably below the minimum standard, and therefore the living conditions of future occupiers would not be of a satisfactory level.

Private external space

15. LP Policy D6 sets out that a minimum of 5m² of private outdoor space should be provided for 1-2 person dwellings, and it must achieve a minimum depth and width of 1.5m. However, the policy is clear that this will only apply where there are no higher local standards in the borough Development Plan Documents. The Residential Design Supplementary Planning Document 2013 (SPD) sets a higher figure for private amenity space of 10m² for new flats. Whilst this SPD pre-dates the LP and is guidance rather than policy, it remains a material consideration and as such I give it substantial weight.
16. Flats C and D would not be provided with private external space, nor there is any evidence to suggest that future occupants would have access to an external communal space.
17. Flats A and B, located within the proposed extension to No 39, would be provided with external terraces, which would measure 11m² in the case of flat B and 9.3m² split across two terraces in the case of flat A. Therefore, in numerical terms, the outdoor space for flat B would meet the recommendations of the SPD, and the outdoor space for flat A would not fall significantly below the figure recommended by the SPD.

18. However, given the narrow and angular shape of these outside areas, the outdoor space would be cramped and have limited usability, even if I were to consider the space provided against the standards set out within LP Policy D6. While the rear facing terrace in flat A would have a depth of 1.5m, this would be a small space that would not justify the unsuitable quality of the proposed outdoor space overall.
19. The SPD allows for some flexibility in relation to the size of the recommended private amenity space, if it can be demonstrated that the outdoor space would be at odds with the prevailing physical context and local character of development. However, I observed in my site visit that there are examples of external spaces on the roof tops of nearby buildings and the site is located outside the Kingston Town Centre. Further, there is no specific evidence before me to demonstrate that the delivery of suitable outdoor space would compromise optimising housing potential for the site. Therefore, the proposal would not provide appropriate external space for the future occupiers of these flats, and the provision of adequate internal accommodation would not successfully address this harm.
20. In addition, no communal space to serve flats A and B would be provided. Whereas it may be that site constraints would hinder the delivery of outdoor communal space, this would not justify the unsuitable provision of private outdoor space.
21. Whilst nearby open spaces may serve to meet some recreational needs of future occupants of the proposed flats, this would not compensate for a lack of suitable private amenity space.
22. The proposal would not provide acceptable living conditions for the occupiers of the development, with regard to internal space and external space. Conflict would therefore arise with those aims of LP Policy D6 and with CS Policies DM10 and DM13 which seek to ensure that housing development is of a high-quality design with adequate private and/or communal amenity space and require proposals to demonstrate that the scheme has been designed to provide adequate internal space appropriate to the intended number of occupants
23. The Council's second reason for refusal refers to LP Policy D11. This policy concerns safety, security and resilience to emergency. In this case, there is no compelling evidence before me to demonstrate that this policy would be relevant in the context of this main issue.

Housing mix

24. CS Policy DM13 requires new development to provide a minimum of 30% of dwellings as three or more bedrooms unless it can be robustly demonstrated that this would either be unsuitable or unviable.
25. The Strategic Housing Market Assessment for Kingston Upon Thames 2016 (the SHMA) identifies that there is a significant requirement for family housing. The future projected dwelling requirement for Kingston shows the Objectively Assessed Need (OAN) in the period to 2035 regarding 3+ bedroom units is of approximately 70%, which is significantly higher than the OAN for 2 bedroom units, which is some 23%.
26. The current proposal would not provide any 3 or 3+ bedroom residential units for which there is a clear evidenced need in the Borough, and there is no substantive

evidence before me to demonstrate that this would be unsuitable or unviable. While the proposed flats would be appropriate in this area and would be capable of accommodating a smaller family and those wanting to downsize, the proposal would nonetheless fail to provide a satisfactory mix of larger units for which there is a significant demand. The variety of flat sizes within the appeal building as a whole would not mitigate for this, even more so when considering that the proposal would comprise the loss of an existing three bedroomed unit to accommodate flats C and D.

27. The proposal would not provide an appropriate mix of housing and would conflict with CS Policy DM13, which supports the delivery of family housing.

Cycle parking

28. The proposal would provide four cycle parking spaces, which would fall short of the minimum cycle parking standards set out within LP Policy T5. In order to overcome this, the evidence sets out that a financial contribution towards off-site short stay cycle-stay parking would be required. This contribution would be secured through a legal agreement, however no executed legal agreement to this effect is before me.
29. Consequently, the proposal would fail to provide an appropriate level of cycle parking, contrary to LP Policy T5 and to CS Policy DM8. These policies seek to promote the use of sustainable modes of travel, help remove barriers to cycling and secure the provision of appropriate levels of cycle parking, amongst other things.

Other Matters

30. The appellant asserts that the proposal would optimise the development capacity of the site. However, I am not persuaded that the proposed scheme is the sole means to achieve this.
31. Reference is made to a previous planning permission² granted by the Council at the appeal site. The evidence provided in relation to this planning consent indicates that this scheme comprised the partial demolition of existing buildings. The roof extension under that development was part of a comprehensive scheme associated with the redevelopment of the site. Be as it may, I have not been provided with the full details, including approved plans, pertaining to that scheme and therefore I cannot conclude that it would be comparable to the proposal before me.
32. I am mindful of the appellant's request to consider issuing a split decision. Under Section 79(1)(b) of the Town and Country Planning Act 1990, I have the power to split a decision on a Section 78 planning appeal. However, while the proposal could be separated into two distinct elements, I have found that both the extension and the conversion of the existing first and second floor flat to two separate flats would be harmful. As such, I have chosen to not split my decision.

Planning Balance

33. The scheme would be acceptable in terms of development requirements, including the provision of appropriate internal space, its effect on the living conditions of

² LPA Ref. 19/03092/FUL

adjoining neighbours and the UU would secure a car-free development. However, these are neutral factors that neither weigh for or against the development.

34. The proposal would result in harm to the character and appearance of the host building and of the area, including on the significance of the NDHAs, would fail to provide satisfactory living conditions for future residents, the proposed housing mix would not be acceptable and suitable cycle parking would not be provided. I ascribe substantial weight to this harm.
35. There is no dispute between the parties that the Council cannot currently demonstrate a 5-year supply of deliverable housing sites. In such circumstances paragraph 11 d) ii of the National Planning Policy Framework (the Framework) states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
36. In terms of benefits, the proposal would meet the Framework's objectives of boosting the supply of housing and would deliver residential accommodation within an accessible location close to local services and transport links. The proposal would utilise the existing airspace above the existing building and would be a more effective use of land within a site that is already developed. However, given that the scheme would deliver a modest number of new flats, these benefits attract limited weight in favour of the proposal.
37. The Framework seeks to ensure that development is sympathetic to local character, including the built and historic environment, and is visually attractive. It supports development with a high standard of amenity for future users, with an appropriate mix of housing types for the local community and promotes sustainable transport. LP Policies D3, HC1 and T5 and CS Policies CS8, DM10, DM12, DM13 and DM8 are broadly consistent with the Framework and therefore the conflict between the proposal and these policies should be given significant weight in this appeal. The proposal would therefore conflict with the development plan as a whole.
38. Thus, the adverse impacts of the proposal significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

39. 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. For the reasons given above the appeal should be dismissed.

P Terceiro

INSPECTOR