



Appeal Decision

Site visit made on 20 November 2025

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 January 2026

Appeal Ref: APP/Z5630/W/25/3369408

48, Lyndhurst Avenue, Tolworth, Kingston upon Thames KT5 9LL

- 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 Alex Nightingale against the decision of Royal Borough of Kingston upon Thames.
 - The application Ref is 25/00594/FUL.
 - The development proposed is described on the application form as "Erection of a single detached house in the rear of the host dwelling. Reduction in the size of main dwelling to allow for suitable access to the proposed new dwelling."
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the development on the character and appearance of the area;
 - whether the development would achieve the highest standards of fire safety, with particular regard to turning facilities for fire-fighting vehicles and fire-fighting suppression systems;
 - whether the proposal would result in unacceptable impacts on ecology and biodiversity.

Reasons

Appeal site context

3. The appeal site consists of a mature 2-storey detached dwelling set back from the road behind a low picket fence and lawned front garden. The property is positioned on the outside of a slight bend in the road and as a consequence, the plot tapers out towards the rear resulting in a spacious back garden of an irregular shape.
4. Lyndhurst Avenue has clear suburban character with 1930s semi-detached and detached 2-storey houses on large garden plots fronting onto a vehicular highway bordered by grass verges and trees.

The effect of the development on the character and appearance of the area

5. The development would significantly diminish the openness of the garden plot and intrude into the open outlook from adjacent residential gardens. It would also result in the loss of multiple trees and erode the verdant appearance of the locality. In so

doing, it would be incongruous with the prevailing low-density settlement pattern and suburban character of the surrounding area, which is defined by dwellings fronting onto the public highway with spacious rear gardens and mature landscaping.

6. Although the appellant states that the proposed dwelling would not be visible from Lyndhurst Avenue, the private access road would be, and in my view this would have a harmful impact on the streetscene, which is not characterised by such thoroughfares punctuating through the established built frontage. In any event, I do not consider reduced public visibility to be a sound basis upon which to justify an otherwise harmful scheme as this could be repeated too easily and often for all forms of poor quality development.
7. In support of the scheme, my attention has been drawn by the appellant to a number of developments that have been granted by the Council or allowed at appeal. However, the backland scheme at No 26 The Avenue has a different context in that there are already examples of this type of development at Nos 22-24 and No 30 (which is not the case for Lyndhurst Avenue). Neither is the scheme at 176 Douglas Road comparable as this relates to an extension and subdivision of the existing property to create flats. Similarly, the scheme at No 42 Lyndhurst Avenue is also not comparable in that it relates to an upward extension to an existing property. I have as a consequence considered the scheme on its own merits.
8. In view of the above, I conclude that the development would be harmful to the settlement pattern and spacious suburban character of the area. As a consequence, the development would conflict with Policy D3 of the London Plan¹ and Policies CS8 and DM10 of the Core Strategy², which collectively seek, amongst other things, for proposals to; (1) protect the primary suburban character of the borough from inappropriate development; (2) ensure that new development relates well to its surroundings; and (3) respect and maintain the most essential elements contributing to the character and local distinctiveness of a street, to include the development typology, layout, plot width, format, building lines and space between buildings.
9. I also conclude that the scheme would conflict with Paragraph 135 of the Framework³ which seeks, amongst other things; (a) development that is sympathetic to local character; and (b) development that maintains a strong sense of place.
10. The scheme would also fail to accord with Policy Guidance 8 of the Council's design guide⁴ which states that new residential development on garden land that is out of character with the existing form of development and urban grain will be resisted.

Whether the development would achieve the highest standards of fire safety, with particular regard to turning facilities for fire-fighting vehicles and fire-fighting suppression systems

¹ The London Plan, The Spatial Development Strategy for Greater London, March 2021, Mayor of London.

² Core Strategy, Local Development Framework, Royal Borough of Kingston upon Thames, Adopted – April 2012.

³ National Planning Policy Framework, Ministry of Housing, Communities and Local Government, 12 December 2024 (as amended on 7 February 2025).

⁴ Residential Design SPD, Local Development Framework, Royal Borough of Kingston upon Thames, Adopted – July 2013 (Amended – November 2013).

11. In view of the limited length of the private access road (approximately 28 metres), I am satisfied that a fire-fighting vehicle would not have to reverse more than 20 metres to be in close proximity to the proposed dwelling (to allow for a working area between the two). This would accord with the maximum reversal distance referred to in the Building Regulations⁵ and as a consequence, I am satisfied that no turning facility would be needed.
12. However, I do have concerns over the restricted width of the private access road being able to accommodate a fire-fighting vehicle. As a consequence, it would have been necessary (had I been minded to allow the appeal) to impose a condition requiring a detailed drawing of the driveway layout to ensure that this was widened to the 4 metre width specified in the design and access statement.
13. Turning to the matter of fire-fighting suppression systems, I am satisfied that the appellant's intention to use sprinkler and smoke & heat detection systems would further enable the scheme to achieve a high standard of fire safety at the site.
14. In view of the above, and because these particular aspects of the scheme would be subject to further regulatory assessment under the Building Regulations, I am satisfied that the development would comply with Policy D12 of the London Plan, which seeks, amongst other things, to achieve the highest standards of fire safety.

Whether the proposal would result in unacceptable impacts on ecology and biodiversity

15. The Council states that insufficient evidence has been provided to demonstrate that there are protected or priority species on the site and that any impacts on ecological features are managed. However, the appeal site does not benefit from any local or national designations of nature conservation importance and neither has the Council supplied any evidence from an ecologist or Natural England stating that there is a reasonable prospect of rare or legally protected species of Flora and Fauna being found to be present on or adjacent to the site.
16. Furthermore, Policy DM6 of the Core Strategy only requires an ecological assessment on major development proposals, or where a site contains or is next to significant areas of habitat or wildlife potential. On the basis of the evidence before me, the small scale nature of the scheme, the amount of vegetation to be lost, and my inspection on-site, I consider neither scenario to be applicable in the case before me. In reaching this conclusion, I have also had regard to Paragraph 45 of the Framework which states that local authorities should only request supporting information that is, amongst other things, necessary to the application in question.
17. In light of the above, I do not consider it necessary for an ecological assessment to have been submitted in this case or justifiable to withhold permission on this basis. I am also satisfied that a condition for a landscaping scheme could have been imposed to ensure that any impact on biodiversity is mitigated for on-site.
18. In view of the above, I conclude that the development would not result in an unacceptable impact on ecology and biodiversity. The scheme would therefore accord with Policy G6 of the London Plan and Policy DM6 of the Core Strategy, which collectively seek, amongst other things, to ensure that new developments protect & promote biodiversity and manage impacts upon it.

⁵ Requirement B5 of Approved Document B (Fire Safety) of the Building Regulations 2010.

19. I also find that the scheme accords with Paragraph 187 of the Framework which states that planning decisions should, amongst other things, contribute to and enhance the natural and local environment by minimising impacts on biodiversity.

Other Matters

20. Although the proposal is for a self-build and custom build dwelling, the Council states that no evidence has been supplied by the appellant demonstrating that the scheme would meet the definition of this and therefore benefit from a biodiversity net gain exemption. However, given that I am dismissing the appeal for other reasons, it has not been necessary for me to seek further clarification on this from the appellant and consider the matter further.
21. I note the Appellant's frustrations regarding pre-application discussions and the manner in which the formal application was processed, but these have little bearing on the planning merits of the scheme before me and are a matter between the parties. The appellant has also emphasized their attempts to address concerns relating to the previous scheme by reducing it in scale and to a single dwelling. However, I must consider the appeal scheme on its own merits.

Planning balance

22. For the reasons identified above relating to character and appearance, I do not consider the scheme to be located on a suitable site within an existing settlement. As a consequence, I have not given great weight to the benefits of delivering a home on this small and medium sized site in accordance with Paragraph 73 of the Framework.
23. The appellant states that a benefit of the scheme is that it utilises previously developed land (brownfield land). However, the Framework definition for previously developed land excludes land in built up areas such as residential gardens (as is the case in the scheme before me). I have not as a consequence given any weight to this as a benefit.
24. I agree with the appellant that the scheme would make an efficient use of land. However, because it does not take into account the desirability of maintaining the area's prevailing character and setting (which includes residential gardens), it would conflict with Paragraph 129 of the Framework.
25. The Council has confirmed there is a shortfall in the borough's 5-year housing land supply. This means that the Framework's presumption in favour of sustainable development applies.
26. The scheme would result in economic and social benefits from; - (a) a quickly-deliverable contribution towards the Council's 5-year housing land supply in a sustainable location; (b) future occupiers contributing to the vitality and viability of shops, services, facilities, businesses and community organisations in the surrounding area; and (c) local employment during construction. However, given the small size of the development in terms of housing units, I consider these benefits to be of limited value and that the adverse impacts of the scheme would significantly and demonstrably outweigh these, when assessed against the policies in the Framework when taken as a whole.

27. In view of the above, I conclude that the proposal does not accord with the development plan and that other material considerations do not indicate that the proposal should be determined other than in accordance with this.

Conclusion

28. Although I have concluded that there is no harm in respect of the main issues relating to fire safety and ecology/biodiversity, I am nonetheless satisfied that the harm identified in respect of the main issue relating to character and appearance is sufficient to still justify dismissal of the appeal.
29. For the reasons given above the appeal should be dismissed.

Robert Fallon

INSPECTOR