



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: 30 January 2026

Appeal Ref: APP/Z5630/W/25/3368860

7 Graham Gardens, Surbiton, KT6 6LT

- 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 Ms L. Hunt against the decision of Royal Borough of Kingston upon Thames.
 - The application Ref is 25/00752/FUL.
 - The development proposed is described on the application form as “planning permission for part demolition of existing dwelling, erection of 2 new dwellings and associated access, bins and cycle provision”.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted a planning obligation and covenant pursuant to S106 of the Town and Country Planning Act 1990 (as amended) and S111 of the Local Government Act 1972 (‘the planning obligation’). This contains details of a proposed financial contribution by the appellant to the Council in respect of a biodiversity gain land monitoring contribution. Given that this document has been signed and executed by Council, I have given it significant weight in my assessment.
3. The appellant submitted an updated preliminary ecological appraisal (dated 21/07/25) to verify whether on-site conditions had changed since the original preliminary ecological appraisal and bat roost assessment (dated 28/03/23). Given that this has not resulted in any changes to the scheme and there was sufficient time for the Council and neighbours to provide comments in respect of this, I have considered the proposal on this basis and am satisfied that no parties would be prejudiced by this.

Main Issues

4. The main issues are:
 - the effect of the development on the character and appearance of the area;
 - whether the removal of the TPO protected Yew tree would have an adverse effect on the amenity and character of the area;
 - whether the proposal would result in unacceptable impacts on ecology and biodiversity.

Reasons

Appeal site context

5. The appeal site consists of a mature 2-storey detached dwelling set back from the road behind a dwarf wall. The front and rear gardens are dominated by well-established trees, shrubs & lawns and have a mature verdant character. The property is positioned at the end of the road on a plot that tapers out towards the rear resulting in a spacious back garden of an irregular shape.
6. Graham Gardens is a short cul-de-sac characterised by semi-detached and detached 2-storey houses of varying age and architectural style that front onto the road. There is no consistent facing material, boundary treatment or front garden surfacing, with the only common feature being pitched roofs.

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

7. By reason of there being no predominant form of architectural style in Graham Gardens, I am satisfied that the scheme's art-deco design (with flat roof) would not in itself be harmful to the character and appearance of the area.
8. However, the scale, mass and 3-storey height of the development would heavily urbanise and significantly diminish the openness of this garden plot, intrude into the open outlook from adjacent residential gardens (including that of the host property) and overwhelm the surrounding dwellings. I recognise that there are many examples of conventional pitched roofs in the area being used for additional accommodation, but these have a completely different character and visual impact to a full height 3-storey flat roof property.
9. I recognise that there would be limited visibility of the proposed dwellings from the public highway, but do not consider this 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.
10. In support of the proposal, my attention has been drawn by the appellant to the Council's Small Sites Design Narrative document¹, with particular reference to the Oak Hill Grove development. However, this scheme is not comparable as it relates to a comprehensive development of the site, which is different from the proposal before me where the existing dwelling is retained. Neither did I find any other examples in this document that were directly comparable or general guidance that would lead me to draw a different conclusion. I have as a consequence considered the proposal on its own merits.
11. In view of the above, I conclude that the development would be harmful to the suburban character of the area. As a consequence, the scheme would conflict with Policy D3 of the London Plan² and Policy DM10 of the Core Strategy³, 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 development typology, layout and format.

¹ Small Sites Design Narrative, September 2024, Royal Borough of Kingston upon Thames.

² The London Plan, The Spatial Development Strategy for Greater London, March 2021, Mayor of London.

³ Core Strategy, Local Development Framework, Royal Borough of Kingston upon Thames, Adopted – April 2012.

12. I also conclude that the scheme would conflict with Paragraph 135 of the Framework⁴ which seeks, amongst other things, development that is sympathetic to local character.

Whether the removal of the TPO protected Yew tree would have an adverse effect on the amenity and character of the area

13. The Council's Tree Officer has objected to the loss of the TPO protected Yew tree (the 'Yew tree') on the basis that it is healthy and of amenity value. On the other hand, the appellant's arboricultural impact assessment identifies it as being in poor physical condition and fair structural condition with 10+ years life expectancy. However, despite this report identifying some die-back in the crown, there is no indication that the tree is dead, dying, diseased or dangerous.
14. On the basis of my inspection on-site, I found the tree to be in reasonable physical condition and of moderate amenity value given its limited visibility from the public realm. As a consequence, while its loss would cause harm to the character of the area, this would only be to a modest degree.
15. I note the Appellant's frustrations regarding the 2020 pre-application discussions relating to the Yew tree and their concerns that it was not inspected on-site by the case officer or tree officer, but this is a matter between the parties and I must consider the appeal scheme on its own merits.
16. In view of the above, I conclude that the loss of the Yew tree would have an adverse effect of the amenity and character of the area. The scheme would therefore conflict with Policy G7 of the London Plan and Policy DM10 of the Core Strategy, which collectively seek, amongst other things, to retain existing trees of value and TPO protected trees that are of importance to amenity and the character of an area.

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

17. Although the Council has objected on the basis that the surveys in the 2023 preliminary ecological appraisal and bat roost assessment were undertaken more than 24 months before submission, I consider this matter to have been addressed by the 2025 preliminary ecological appraisal which;- (1) accords with CIEEM advice on the age of data⁵; and (2) has confirmed that on-site conditions have not changed in the intervening period.
18. However, both of the above documents have confirmed that the main dwelling, part of which is to be demolished, has been assessed as having moderate potential to support roosting bats and that nocturnal surveys are recommended to determine if they are present.
19. In the absence of any nocturnal surveys, it is not possible to ascertain what the impact of the proposal would be on bats or whether any mitigation would be possible. On the basis that the development could result in irrevocable harm to this protected species, I have adopted a precautionary approach in my assessment of the scheme.

⁴ National Planning Policy Framework, Ministry of Housing, Communities and Local Government, 12 December 2024 (as amended on 7 February 2025).

⁵ Advice note on the lifespan of ecological reports & surveys, April 2019, Chartered Institute of Ecology and Environmental Management (CIEEM).

20. In light of the above, I am unable to conclude that the development would not result in harm to bats as a protected species. The scheme would therefore fail to 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.

Other matters

21. The appeal site is adjacent to the Southborough Conservation Area, which is described in the Conservation Area Statement⁶ as an area of large detached houses dating from the 1860s – 1930s surrounding Southborough House, an 1808 Grade II listed building by the architect John Nash. I found these properties, which are large and detached, to be reflective of the architectural style of the period. However, because the more modern development on Kirkleas Road separates the appeal site from the older part of the conservation area, I am satisfied that the scheme would not harm its historic significance.

Planning balance

22. Notwithstanding the above conclusions, I am nonetheless satisfied that the appeal site could be suitable for some form of development. As a consequence, I have given great weight to the benefits of delivering 2 homes on this small 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, environmental and social benefits from; - (a) the construction of two energy efficient family dwellings; (b) a quickly-deliverable windfall contribution on a small-site towards the Council's 5-year housing land supply in a sustainable location (as supported and encouraged by Policies H1 and H2 of the London Plan); (c) ecological enhancements via the Biodiversity Net Gain Plan; (d) future occupiers contributing to the vitality and viability of shops, services, facilities, businesses and community organisations in the surrounding area; and (e) 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.

⁶ Conservation Area 4, Southborough, Planning Information, Royal Borough of Kingston upon Thames.

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.
28. Notwithstanding the above conclusion, had the scheme been accompanied by appropriate bat surveys and been of a more modest scale, mass & height so as not to harm the character and appearance of the area, I would have concluded that its benefits outweighed the loss of the TPO protected Yew tree.

Conclusion

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

Robert Fallon

INSPECTOR