
Appeal Decision

Site visit made on 28 October 2020

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 23 November 2020

Appeal Ref: APP/Z3635/W/20/3249419
307 Feltham Hill Road, Ashford TW15 1LT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Syed Rizvi against the decision of Spelthorne Borough Council.
 - The application Ref 19/01570/FUL, dated 19 November 2019, was refused by notice dated 31 January 2020.
 - The development proposed is 2 Nos. houses to be replaced with 5 Nos. 2 bedroom houses.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. As part of the appeal, the appellant submitted amended drawings which seek to address some of the Council's concerns associated with the layout of the proposed development. There were a number of comments from local residents about the layout when the appeal application was being assessed by the Council. I am not satisfied that all the residents who previously made comments, and any other consultees, have had adequate opportunity to consider the content of the amended drawings which include a change to the siting of a dwelling. For this reason, this appeal has been determined based upon the scheme assessed by the Council.

Main Issues

3. It is considered that the main issues are the effects of the proposed development on (a) the character and appearance of the surrounding area and (b) the living conditions of the occupiers of neighbouring properties.

Reasons

Character and Appearance

4. The proposed development includes the demolition of 2 existing frontage properties and the erection of 5 dwellings within their combined curtilages. The site is situated within a primarily residential area comprising single and 2-storey dwellings which generally front the roads. Three of the proposed dwellings would comprise a terrace facing the road and their form and siting would reflect and respect the character of the streetscene.

5. Two proposed dwellings would be sited towards the rear of the appeal site within the current gardens. An access would be constructed adjacent to the shared boundary with 309 Feltham Hill Road and 1A Goffs Road. Parking for 3 vehicles and manoeuvring area would be located within the rear part of the site together with a cycle store.
6. The Council's *Residential Extensions and New Residential Development Supplementary Planning Document* (SPD) provides guidance on the development for one or more dwellings with access via a gap in the street frontage. The SPD refers to the resultant form of development and garden sizes respecting the character of the area and any adjoining non-residential land.
7. As identified by the appellant, adjacent to the site are examples of backland development with residential properties being sited to the rear of frontage dwellings. However, Chalet Close has the character of dwellings fronting a cul-de-sac road and its associate turning head rather than accessed via a driveway. The evidence for the scheme to the rear of 70 Junction Road is that it was granted consent on appeal¹ and comprised the redevelopment of a previously developed site, namely a church hall. This circumstance can be differentiated from the appeal scheme because gardens are not included in the National Planning Policy Framework's (the Framework) definition of previously developed land.
8. Although there are specific circumstances associated with these 2 near-by schemes, they are backland housing development adjacent to the appeal site and, as such, they are part of the residential character of the immediate area. This observation reflects the assessment of the Inspector who determined the appeal at No. 70 where the development of a previously developed backland site was judged not to be out of character with other developments in the locality. The proposed dwellings sited at the rear of the site would respect the character of the area. Although they would be seen from the road along the access, there would only be glimpsed views of these dwellings and significant harm would not be caused to the character and appearance of the streetscene.
9. The Council's concerns also include the design and layout of the proposed development. I share the Council's concerns that the appeal scheme would not be of the type of high quality design and layout sought by the Framework and Policy EN1 of the Spelthorne Core Strategy and Policies Development Plan Document (DPD). By reason of siting and design, there would be a poor relationship between the study windows of the dwellings located on plots H2, H3 and H5 and the proposed parking areas. The future occupiers would have a poor outlook towards the parking spaces. There would also be a conflict with the Council's SPD because the parking and manoeuvring areas would collectively exceed 50% of the width of the frontages of the dwellings located on plots H5 and H3.
10. Although future residents of the proposed rear dwellings may be prepared to drag their bins to a suitable collection point, no details are provided about the location of this facility. Further, the proposed cycle park is at a single facility towards the rear of the site rather than secure parking being provided in a more convenient location closer to the dwellings on plots H1, H2 and H3. It is

¹ APP/Z3635/A/11/2154108

recognised that these matters could be the subject of conditions but they do add to the concerns about the quality of the appeal scheme's layout.

11. Accordingly, although the form of the backland development would be acceptable this matter is outweighed by the overall poor design and layout of the appeal scheme. It is therefore concluded that the proposed development would cause unacceptable harm to the character and appearance of the area and, as such, it would conflict with DPD Policy EN1, the SPD and the Framework.

Living Conditions

12. The proposed access, together with the 5 car parking spaces and the manoeuvring area, would enable vehicles to access the rear of the appeal site. This area is currently amenity space and is not accessed by vehicles.
13. The rear elevations of Nos. 309 and 1A are sited close to the shared boundary and there are habitable rooms within the rear elevation of No. 1A. For development access through a gap in the street frontage the SPD refers to providing an access of sufficient width to ensure adequate separation from adjoining buildings to preserve the amenity of the new and adjoining properties. The SPD echoes DPD Policy EN1 which requires proposals for new developments to demonstrate that they have a satisfactory relationship to adjoining properties thereby avoiding significant harmful impact. This policy is consistent with the Framework which refers to development decisions ensuring that there is a high standard of amenity for existing and future users
14. By reason of layout, the appeal scheme would introduce, into what is a quieter part of the site, a source of noise and disturbance associated with the manoeuvring of vehicles, slamming of car doors and starting of engines close to the shared boundary with Nos 309 and 1A. There would be an inadequate separation between, in particular, the access and the manoeuvring area and these dwellings to avoid an unacceptable impact on the living conditions of the occupiers of the neighbouring properties by reason of noise and disturbance.
15. The appellant refers to the potential to erect a fence along the shared boundary to address any potential harm. However, no details of the potential fencing have been provided to demonstrate that it would be possible to attenuate adequately the noise levels associated with the movement and related activities of vehicles within the rear part of the site. A condition would be inappropriate in this case because there is a need for confidence that a suitable noise attenuation fence could be erected to address this main issue without causing other harm to the neighbouring occupiers.
16. Local residents have raised other matters which it is claimed will have an adverse effect on their living conditions, including loss of outlook, privacy and daylight together with concerns about pollution and fear of crime. However, these matters were assessed by the Council and were not considered to cause unacceptable harm. There are no reasons to depart from the Council's assessment but these matters do not outweigh the unacceptable harm caused by the location of the proposed access, parking spaces and manoeuvring area within the rear part of the site. Accordingly, it is concluded that the proposed development would have an unacceptable effect on the living conditions of the occupiers of neighbouring properties and, as such, it would conflict with DPD Policy EN1, the SPD and the Framework.

Other Matters

17. It is not disputed by the Council that there is an absence of a 5-year supply of housing land within the Borough. Without a 5-year supply of housing land, the presumption in favour of sustainable development, as set out in paragraph 11 of the Framework applies. There would be a benefit associated with the erection of 3 additional dwellings within the urban area to which significant weight is given.
18. However, the policy that is the most important for determining this appeal, DPD Policy EN1, has been identified to be consistent with the Framework's policies. When assessed against the policies in the Framework taken as a whole, this is a case where the unacceptable harm which has been identified, and the conflict with the relevant design and living conditions policy of the development plan, significantly and demonstrably outweigh the provision of 3 additional dwellings. For these reasons, the appeal scheme would not be sustainable development and a decision other than in accordance with the development plan is not justified. Accordingly, for the reasons given, it is concluded that this appeal should be dismissed.

D J Barnes

INSPECTOR