
Appeal Decisions

Site visit made on 23 November 2020

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2020

Appeal A Ref: APP/Q3630/W/20/3245876 38-40 Woodham Lane, Addlestone KT15 3NA

- 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 Rotolok (Holdings) Limited against the decision of Runnymede Borough Council.
 - The application Ref RU.19/0463, dated 29 January 2019, was refused by notice dated 30 July 2019.
 - The development proposed is described on the application form as: 'redevelopment of site to create 9 flats (use class C3) with associated parking provision'.
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Appeal B Ref: APP/Q3630/W/20/3257671 38-40 Woodham Lane, Addlestone KT15 3NA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Rotolok (Holdings) Limited against Runnymede Borough Council.
 - The application Ref RU.20/0189, is dated 28 January 2020.
 - The development proposed is described on the application form as: 'redevelopment of site to create 7 flats (use class C3) with associated car parking provision'.
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Decisions

1. Appeal A is dismissed and Appeal B is allowed such that planning permission is granted for a redevelopment of the site to create 6 flats (use class C3) with associated car parking provision at 38-40 Woodham Lane, Addlestone KT15 3NA in accordance with the terms of the application, Ref RU.20/0189, dated 28 January 2020, subject to the conditions set out at the end of these decisions.

Preliminary Matters

2. I have considered Appeal A based on a redevelopment of the site to provide 8 flats, in accordance with revised plans submitted to and determined by the Council. I have considered Appeal B in accordance with revised plans¹ submitted at planning application stage, which illustrate the provision of 6 flats. Neighbouring occupiers were not formally notified of these plans prior to Appeal B being made. However, the revisions offered no fundamental changes to the scheme that was originally submitted. Indeed, the amendments made were focussed upon the removal of habitable rooms from Block B's roof space and the omission of a residential unit, rather than upon additional floor space or

¹ 05D; 08E; 09D; 10D (superseded 05C; 08D; 09C; 10C)

further development. I am satisfied that no party with an interest in either of the appeals is prejudiced by me taking this approach.

3. The Runnymede 2030 Local Plan (the Local Plan) was adopted by the Council on 16 July 2020 and its policies now attract full weight in decision making. The Local Plan's adoption had the effect of superseding all saved policies of the previous 2001 Local Plan. Both main parties have had the opportunity to comment upon the implications of this with respect to each appeal before me.
4. A Unilateral Undertaking pursuant to Section 106 of the Act (the UU) is before me, which relates to both appeals and seeks to mitigate effects of development upon the Thames Basin Heaths Special Protection Area (the SPA). The UU is dated 3 November 2020 and is signed on behalf of the site's landowners. I shall return to the UU later.
5. With respect to Appeal B, the Council has indicated that it would have refused planning permission had it been in a position to do so. Its main concerns relate to the effect of the proposal upon the living conditions of existing and future residential occupiers and to the loss of business floorspace. I have formulated the main issues accordingly. As a further note, I have elevated SPA considerations to be considered under a main issue in both appeals due to the statutory protections that apply.

Main Issues

6. The main issues in both Appeal A and Appeal B are:
 - Whether or not the intended loss of business floorspace is acceptable;
 - The effect upon the living conditions of neighbouring residential occupiers, having particular regard to privacy and outlook;
 - Whether or not acceptable living conditions for future residential occupiers would be created, having particular regard to privacy and the makeup of the site's external areas; and
 - The effect upon the SPA.

Reasons

Loss of business floorspace

7. The appeal site is not located within a designated employment area but contains two longstanding buildings occupied by the same business for employment purposes. The building to the front of the site provides office space, whilst the building to the rear provides workshop/factory floorspace that I understand is currently used for product testing.
8. Policy IE3 of the Local Plan relates to catering for modern business needs and sets out, amongst other provisions, that the Council will seek the retention/re-provision of incubator units, small warehousing units and small serviced office accommodation unless comprehensive marketing has been carried out. The appeal premises do not fall under these identified types of employment space specifically earmarked for retention. Indeed, the on-site office space is dated and not serviced whilst the building to the rear is not used or setup/equipped for warehousing. Furthermore, it is unlikely that the site would meet the

modern needs of prospective business occupiers, particularly given the constrained on-site parking and servicing arrangements that exist.

9. I acknowledge that Policy IE3 offers support for proposals to redevelop outmoded employment floorspace to cater for modern business needs, and that the proposals here instead cater for the intended provision of residential accommodation. However, the policy only sets out retention/re-provision stipulations with respect to the specific types of business use discussed above. Indeed, Policy IE3 is primarily focussed upon catering for modern business needs rather than upon the protection of all existing economic uses.
10. For the above reasons, in the case of both appeals, I find that the intended loss of business floorspace is acceptable. The proposals do not conflict with Policy IE3 of the Local Plan, which sets out a clear economic vision and strategy which positively and proactively encourages sustainable economic growth in accordance with the requirements of the National Planning Policy Framework (February 2019) (the Framework).

Living conditions of neighbouring residential occupiers

11. The appeal site is positioned such that its northern boundary abuts the grounds of No 36 Woodham Lane (No 36), a detached dwelling. In the case of both appeals, proposed Block A would take the form of a two and a half storey block positioned in a similar position on-site to that of the existing two-storey office building. Block B to the rear would be two and a half storeys in the case of Appeal A and single storey as regards Appeal B.
12. Block A is intended to be served by rear-facing window openings at ground, first and second floor levels. These would be orientated to face westwards and, from upper floor level, would be anticipated to offer some visibility of No 36's rear garden. However, such views would be at oblique angles rather than direct. It is also the case that any potential close-range views of neighbouring garden land would, in the case of each appeal, be further restricted by virtue of Block A's intended forward positioning relative to No 36's rear elevation. I also note that, in the context of the office building that currently exists, Block A would not have an overbearing effect.
13. As regards Block B, a direct relationship with the rear elevation of No 36 would be avoided in the case of both appeals. Indeed, as regards Appeal B, the intended low-scale of the building would guard against any privacy or outlook issues arising. In terms of Appeal A, the glazing solution intended to its upper floors (incorporating elements of obscure glazing at first floor and rooflights at second floor) would protect against any undue degree of overlooking arising towards No 36.
14. Whilst Block B (in the case of Appeal A) would be of two and a half storeys in height and abut No 36's rear garden, it would do so for only a part of the garden's length and in a location set away from the built extent of No 36. In the context of the built form that is currently present at the site and that is proposed to be removed, I do not consider that Block B would appear overbearing or have an undue adverse effect upon the outlook experienced by the occupiers of No 36, or of any other nearby residential property for that matter.

15. For the above reasons, in the case of both appeals, the proposal would not cause harm upon the living conditions of neighbouring residential occupiers having particular regard to privacy and outlook. The proposals accord with Policy EE1 of the Local Plan and the Framework in so far as these policies set out that development proposals will be supported where they ensure no adverse impact on the amenities of occupiers to neighbouring property.

Living conditions of future residential occupiers

16. With respect to Appeal A, it is the case that two relatively substantial blocks of residential development would be positioned in relative proximity to each other upon a site that is fairly constrained in terms of its overall area. Furthermore, as illustrated upon the proposed site plan, most of the site's external spaces would provide hard surfaced areas for the parking and manoeuvring of vehicles. A cramped and intensive form of residential redevelopment is proposed.
17. Future occupiers served by the west-facing rear elevation of Block A or the east-facing front elevation of Block B would endure direct mutual overlooking at relatively close quarters. Whilst efforts have been made to engineer a solution at first floor level whereby glazing would be angled upon Block B's east-facing façade, I do not consider that such measures would go far enough to adequately guard against concerns in a privacy context. Furthermore, considering the cramped nature of the scheme (Appeal A), future occupiers of Block A would not be provided with any realistically useable semi-private external spaces for their own enjoyment (even if on a communal basis).
18. In terms of Appeal B, whilst it remains the case that Blocks A and B would be positioned relatively close to each other, mutual direct views between future occupiers of the two blocks would only be available at ground floor level across a shared external space. This arrangement does not cause undue privacy concerns.
19. It is also the case that, when compared to the scheme subject to Appeal A, a greater extent of soft landscaped space is intended and a less intensive way of bringing forward the site's central area has been devised. A landscaped area (albeit limited in size) is proposed to the immediate rear of Block A, which would be anticipated to offer a shared amenity function for future flat occupiers. I note here that I have not been alerted to any specific external amenity space standard (or similar) adopted by the Council.
20. Further with respect to Appeal B, future occupiers of Block B would, it is anticipated, be served by individually laid out private garden spaces. I am satisfied that suitable living conditions for all future occupiers of the scheme would avail. Indeed, the level of noise generated by future vehicular trips to and from the site would realistically be relatively limited and thus acceptable in a living conditions context.
21. For the above reasons, with respect to Appeal B only, I find that acceptable living conditions for future residential occupiers would be created, having particular regard to privacy and the makeup of the site's external areas. The scheme would thus not cause harm and accords with Policies EE1 and EE2 of the Local Plan and with the Framework in so far as these policies set out that development proposals will be supported where they ensure no adverse impact

on the amenities of occupiers of the development proposed and provide an appropriate standard of private amenity space.

22. However, for the above reasons, with respect to Appeal A, I find that unacceptable living conditions would be created having particular regard to privacy and the makeup of the site's external areas. In this context I find harm and associated conflict with Policy EE1 and with the Framework.

SPA

23. The site lies in proximity to the SPA such that I must consider the appeals against The Conservation of Habitats and Species Regulations 2017. These regulations require that, where the project is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), the competent authority must make an appropriate assessment of the project's implications in view of the relevant site's conservation objectives.
24. I note from the evidence before me that the Council, in the process of considering the planning applications that are now the subject of these appeals, undertook its own appropriate assessments. These ultimately identified that mitigation measures that comply with the Council's adopted guidance would be secured by way of a completed legal agreement and that an impact upon the integrity of the SPA would be avoided.
25. However, for the purposes of these appeals, I am the competent authority and must undertake my own appropriate assessments prior to considering the issue of mitigation. It is apparent from the evidence before me that the SPA is comprised of a network of heathland and woodland sites which are designated for their ability to provide a habitat for the internationally important bird species of Woodlark, Nightjar and Dartford Warbler. These birds nest on or near to the ground and are thus susceptible to predation and disturbance from informal recreation.
26. Policy EE10 of the Local Plan sets out that, within 5km of the SPA boundary (which is the case here), adequate measures to avoid and mitigate potential effects of additional residential development will need to be put in place. Such measures include contributions towards enhancing strategic Suitable Alternative Natural Green Space (SANGS) and towards Strategic Access Management and Monitoring (SAMM) at the SPA.
27. The UU sets out intended SANGS and SAMM contributions in line with per-unit requirements as set out in the Council's Interim Advise Note, itself contained within The Thames Basin Heaths Special Protection Areas Supplementary Planning Guidance (November 2009). The UU also secures full payment prior to the commencement of any material operation on-site.
28. As set out in the supporting text to Policy EE10, there are five strategic SANGS in the Borough that have capacity to mitigate the impacts of new residential development. Furthermore, it is apparent from the same supporting text that an Outline Business Plan is in place that utilises a team of site wardens for access management and monitoring purposes. Whilst covenants cannot be placed upon the Council through the UU, I am content that adequate assurances are in place to ensure that the intended mitigation and avoidance measures would be implemented expediently should planning permission be granted with respect to either of the appeals.

29. I am satisfied that the UU is fit-for-purpose. Indeed, the UU would be read alongside these appeal decisions which clearly set out the number of units being considered in the case of each appeal. I also note that the UU is conditioned not to have effect unless planning permission is granted.
30. I note here that, for the purposes of my appropriate assessments, the relevant Statutory Nature Conservation Body has been consulted over a reasonable timeframe. No observations were forthcoming.
31. For the above reasons, the proposals would mitigate their impact upon the SPA and I am thus satisfied that each proposed development would not adversely affect its integrity. The proposals accord with Policy EE10 (Thames Basin Heaths Special Protection Area) of the Local Plan.

Other Matters

32. As I have found the scheme subject to Appeal A to be unacceptable for other reasons, it is not necessary for me to explore its effects in the context of the area's character and appearance. With respect to Appeal B, I am satisfied that the proposal acceptably responds to the mixed and predominantly residential character and appearance that exists locally. Indeed, notwithstanding the typically spacious nature of nearby garden spaces, the bulk of development that currently exists to the site's rear would be notably reduced. Furthermore, Block A would not appear out of place in the Woodham Lane streetscene.

Planning Balance

33. With respect to Appeal A, the proposal would deliver 8 additional housing units and the Framework reaffirms the Government's objective of significantly boosting the supply of homes. However, the contribution of 8 flats would not make a clear or noticeable difference to the Boroughwide housing supply position and thus attracts moderate weight.
34. Whilst the proposal subject to Appeal A involves the re-use of previously developed land, an active business use (albeit of skeleton/scaled down nature) currently occupies the site. I thus afford somewhere between limited and moderate weight to this benefit. Noting the intended scale of Block B, any potential improvements of redeveloping the site in either a visual or residential amenity context would be modest and would attract limited weight accordingly. Any biodiversity enhancement ultimately delivered would also attract limited weight noting the minimal opportunities that would avail for implementing on-site enhancements.
35. The above stated contributions would be relatively modest, even when considered in cumulative terms, and would not outweigh the significant harm that I have identified would be caused by the proposal (that is the subject of Appeal A) in the context of the living conditions of future residential occupiers. The proposal conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.
36. To the contrary, with respect to the scheme that is the subject of Appeal B, I find that it accords with the development plan when read as a whole and that other material considerations do not lead me to a decision otherwise.

Conditions

37. The Council has suggested a number of conditions that the appellant has had the opportunity to comment upon and which I have considered against advice set out in the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency and clarity purposes and have omitted others. Pre-commencement conditions have only been applied where agreed to by the appellant in writing and where necessary to guide initial works on site. In the interests of certainty, a condition specifying the approved plans and documents is required. For the avoidance of doubt, I have referenced the revised plans that depict a redevelopment of the site to create 6 flats.
38. In the interests of protecting the character and appearance of the area, conditions are reasonable and necessary to secure full details of external facing materials and of hard and soft landscaping, as well as the implementation and maintenance of new planting. I have added specific reference to the materials of roofs, noting the potential for them to be visible from outside the site, and have removed specific reference to arboricultural works from the landscaping condition because no substantive such works would realistically be anticipated.
39. I also note that the landscaping condition secures full details of walling/fencing to be erected, which would allow for full details of a 2m acoustic barrier (anticipated to be installed to the site's western boundary in accordance with mitigation measures set out in the approved Noise Assessment) to be provided. The provision of such a barrier would be in the interests of protecting future occupiers' amenities.
40. To ensure that the risks from land contamination are minimised and in the interests of protecting human health, a condition is reasonable and necessary to secure, in accordance with the conclusions of a Phase 1 Desk Study already undertaken, intrusive investigation at the site and the implementation of any subsequent necessary remedial works that are identified.
41. In the interests of highway safety, of ensuring a suitable level of on-site parking and of encouraging sustainable transportation choices, a condition is reasonable and necessary that secures that vehicle and cycle parking and turning areas are indeed provided in accordance with the approved plans and that thereafter such features are retained solely for such purposes. I am content that these requirements can be met through a single all-encompassing condition. Also, in the interests of highway safety, a Construction Transport Management Plan condition is necessary. In the interests of promoting low-emission travel, a condition specifying the provision of a scheme for at least two on-site fast-charge sockets for electric vehicles is reasonable.
42. To guard against the risks associated with surface water flooding, a condition is reasonable and necessary that secures the submission and implementation of a scheme of surface water drainage works. Such a scheme would include details of a management and maintenance plan for the lifetime of any sustainable urban drainage system that is installed.
43. In the interests of promoting on-site biodiversity, a condition is reasonable and necessary to secure a scheme of enhancements in this context. To promote water efficiency and a sustainable form of development, it is reasonable to secure details of water efficiency and rainwater harvesting measures to be installed.

44. It is not necessary to impose a condition related to the delivery of SANGS. This is because the UU deals comprehensively with mitigating the effects of the development upon the SPA.

Conclusion

45. For the reasons given above, Appeal A is dismissed and Appeal B is allowed subject to conditions.

Andrew Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be commenced not later than the expiration of three years beginning with the date of this permission.
- 2) The development hereby permitted shall be carried out in full accordance with the following approved plans and documents: 01A; 02A; 03A; 04A; 05D; 06B; 07A; 08E; 09D; 10D; 11A; Planning Statement (January 2020); Design and Access Statement (January 2020); Phase 1 Desk Study (March 2020); Noise Assessment (27 March 2020).
- 3) No development shall take place until a full intrusive investigation of the site has taken place to determine the extent of, and risk posed by, any contamination of the land and the results, together with a detailed remediation scheme if necessary, have been submitted to and approved in writing by the Local Planning Authority. If remedial works are found to be required, no development shall take place until the approved detailed remediation scheme has been implemented in full. Upon completion of remediation works, a verification report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority. Contamination not previously identified, but subsequently found to be present at the site, shall be reported to the Local Planning Authority as soon as practicable. If deemed necessary by the Local Planning Authority, development shall cease on site until an addendum to the remediation scheme, detailing how the unsuspected contamination is to be dealt with, has been submitted to and approved in writing by the Local Planning Authority. The development shall then be undertaken in accordance with the approved details.
- 4) No development shall take place until a scheme of surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of the potential for surface water to be disposed of by means of a sustainable drainage system. Where a sustainable drainage scheme is to be provided, the submitted details shall provide information about the design storm period and intensity, the method employed to delay and

control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. Prior to the first occupation of the development hereby permitted, the approved scheme of surface water drainage works shall be carried out and any sustainable drainage system shall thereafter be managed and maintained in accordance with the agreed management and maintenance plan.

- 5) No development shall take place until a Construction Transport Management Plan, to include details of parking for vehicles of site personnel, operatives and visitors; loading and unloading of plant and materials; storage of plant and materials; vehicle routing (including measures for traffic management); provision of boundary hoarding behind any visibility zones; measures to prevent the deposit of materials on the highway; has been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be implemented during the construction of the development.
- 6) Prior to the commencement of any above ground construction works, details of the materials to be used to the external elevations and roofs shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 7) Prior to the commencement of any above ground construction works, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority and the scheme shall be carried out as approved prior to the first occupation of the development or in accordance with an alternative timetable to be agreed in writing by the Local Planning Authority. The scheme shall include indications of all changes to levels, hard surfaces, walls, fences, access features, minor structures, the existing trees and hedges to be retained, together with the new planting to be carried out and details of the measures to be taken to protect existing features during the construction of the development. Any trees or plants, which within a period of five years of the commencement of any works in pursuance of the development die, are removed, or become seriously damaged or defective, shall be replaced as soon as practicable with others of similar size and species unless the Local Planning Authority gives written consent to any variation.
- 8) Prior to the commencement of any above ground construction works, details of measures to be implemented to improve and enhance biodiversity at the site shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to the first occupation of the development.
- 9) The development hereby permitted shall not be first occupied until space has been laid out within the site in accordance with the approved plans for vehicles and cycles to be parked and for vehicles to turn so that they

may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes and as depicted upon approved plan 05D. All cycle parking shall be secure and covered in accordance with approved plan 11A.

- 10) The development hereby permitted shall not be first occupied until at least two of the available on-site parking spaces are provided with a fast-charge socket (current minimum requirement: 7kw Mode 3 with Type 2 connector - 230 v AC 32 amp single phase dedicated supply) in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.
- 11) The development hereby permitted shall not be first occupied until details of water efficiency and rainwater harvesting measures to be installed have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to the first occupation of the development and thereafter retained for the lifetime of the development.