



Appeal Decision

Site visit made on 12 October 2021

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd December 2021

Appeal Ref: APP/Q3630/W/21/3273274

Site behind 176 Thorpe Lea Road, Medlake Road, Egham TW20 8HA

- 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 Adam Garrett against the decision of Runnymede Borough Council.
 - The application Ref RU.20/1736, dated 1 December 2020, was refused by notice dated 26 February 2021.
 - The development proposed is construction of a two storey one bedroom cottage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Runnymede Design Supplementary Planning Document 2021 and the revised National Planning Policy Framework (the Framework) were published following the Council's decision on the original application. Any implications raised by the parties have been duly considered under the appeal.
3. There is a dispute about the accuracy of the plans. It is quite clear, as the Council explains, that the first floor front window is positioned at a different height in the proposed elevation and the proposed street scene. Furthermore, two ground floor south side windows are shown on the elevations but only one is shown on the floor plans. The implications are considered under each of the main issues.
4. During the course of the appeal, it appeared that some of the plans and documents on which the Council made its decision were not on file. These were duly requested and submitted. Furthermore, in the interests of natural justice, parties were given an opportunity to comment on the potential effects of obscure glazed windows in potentially mitigating overlooking. The matter has been considered accordingly.

Main Issues

5. The main issues are:
 - (a) the effect of the proposal on the living conditions of neighbouring occupiers in relation to potential overlooking;
 - (b) whether flood risk is acceptable; and
 - (c) the effect of the proposal on the character and appearance of the area.

Reasons

Living Conditions of Neighbouring Occupiers

6. The site comprises the narrow rear garden area of 176 Thorpe Lea Road, and fronts Medlake Road to the north west. There are two dwellings either side of the site, including a semidetached bungalow at 30 Medlake Road and a detached two storey dwelling at 26 Medlake Road. The narrow nature of the site leads to a close relationship with neighbouring dwellings and their rear garden areas.
7. The proposal would construct a dwelling that is positioned along a forward building line that is similar to neighbouring dwellings, and so the side elevations of the respective dwellings and rear garden areas would be directly parallel with each other. The proposal would raise the dwelling to create a void in response to flood risk and this would also increase the height of ground floor windows.
8. The side facing ground floor windows would be elevated above the height of boundary treatments at neighbouring dwellings. Consequently, the proposal would generate direct overlooking of neighbouring dwellings at relatively close proximity.
9. This direct overlooking would harm privacy within the rear garden areas of both neighbouring dwellings. In addition, ground floor windows in the side elevation of 30 Medlake Road would also be subject to overlooking, harming the privacy within the habitable rooms of this neighbouring dwelling in particular.
10. The rear facing first floor window is not dissimilar in its positioning relative to other dwellings in the area. Consequently, although it would generate some level of overlooking, it would not be excessive in the context of levels of overlooking that already exist in the locality.
11. It has not been demonstrated that the extensive use of obscure glazing is an appropriate response to inappropriate window placement, or that there would not be residual perceived levels of overlooking or unintended harmful effects on the living conditions of future occupiers within the proposal itself due to restricted outlook. Consequently, I have given limited weight to the potential use of obscure glazing to mitigate harmful overlooking.
12. It has not been demonstrated that the discrepancies in the plans relating to window placement are determinative in concluding the acceptability of the proposal in terms of overlooking because the effects would be broadly similar in any case.
13. Overall, the proposal would have a harmful effect on the living conditions of neighbouring occupiers by reason of overlooking. Consequently, it would conflict with Policy EE1 of the Runnymede 2030 Local Plan 2020 (LP), which among other things seeks to ensure that forthcoming development does not generate adverse impacts on the amenities of occupiers of the development proposed or to neighbouring properties or uses.

Flood Risk

14. The site is located in Flood Zone 2, which is a flood zone with a medium probability of flooding¹. The potential for forthcoming flood works is noted, but any assessment needs to be based on existing flood zone classifications. The proposal is for residential development, which is classed as being more vulnerable to the effects of flooding². The proposal does not accord with Paragraph 168 of the Framework and is not exempt from either the sequential or exception tests. Both tests need to be passed in turn to demonstrate that the proposal is acceptable.
15. Paragraph 162 of the Framework is clear that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be permitted if there are reasonably available sites appropriate for the proposal in areas with lower risk of flooding. Guidance³ is also clear that the aim should be to keep development out of flood zones with a medium or high probability of flooding.
16. In this context, the appellant has not demonstrated that there is a lack of reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The extent of the test should not be constrained by land ownership and realistically should often extend across a town or district.
17. There is no evidence of a site search in this context or that it would be uneconomical. The Council are committed to self-build housing in policy terms and consequently it seems reasonable that other self-build plots could come forward elsewhere in the local authority area, perhaps as components of wider strategic allocations.
18. Consequently, the proposal fails the sequential test and given that both tests must be passed in sequence, and notwithstanding representations from the Environment Agency, it is not necessary for me to carry out the exception test.
19. Overall, the proposal fails to satisfy the sequential test and would not be acceptable in relation to flood risk. It would therefore conflict with Policy EE13 of the LP and Paragraph 162 of the Framework, which among other things requires the sequential test to be passed.

Character and Appearance

20. As previously described, the site comprises the rear garden area of 176 Thorpe Lea Road, and fronts Medlake Road to the north west. There are two dwellings either side of the site, including a semidetached bungalow and a detached two storey dwelling, both of which are finished in brick.
21. A terrace of two storey dwellings is directly opposite the site and the majority of these are finished in render. Consequently, there is appreciable variation in the character and appearance of existing dwellings in the immediate vicinity of the site. This provides some flexibility in the potential design direction of new development.

¹ Planning Practice Guidance, Paragraph: 065 Reference ID: 7-065-20140306

² Planning Practice Guidance, Paragraph: 066 Reference ID: 7-066-20140306

³ Planning Practice Guidance, Paragraph: 018 Reference ID: 7-018-20140306

22. The proposal would subdivide the existing plot at 176 Thorpe Lea Road and provide a part two storey and part one storey detached dwelling that fronts Medlake Road. The dwelling would have a low gabled roof with a ridge height of 6.25m at the front and 3.9m at the rear, whilst being set back from Medlake Road at a depth broadly consistent with the forward building line of existing dwellings. The dwelling would be finished in brick, render and shiplap timber.
23. The Council's reason for refusal relates to the visual impact of the proposal on the surrounding area. However, the officer report confirms that there is a wide variety of dwelling styles such that the proposal when viewed overall may not be harmful.
24. Consequently, harm to the character and appearance of the area has not been clearly established by the Council and their appeal statement does not provide any additional substance. Furthermore, it has not been demonstrated that the discrepancies in the plans relating to window placement are determinative in how the acceptability of the proposal is assessed in terms of character and appearance.
25. Overall, the Council has not demonstrated that the proposal would harm the character and appearance of the area or that the minor discrepancies in the plans are determinative to this particular matter. Consequently, there is no evidence that the proposal would conflict with Policy EE1 of the LP, which among other things seeks to create high quality built environments.

Other Matters

26. The Council's administration of the previous applications at the site is not a matter for me to deal with under this appeal. In addition, the full details of the previous applications are not in front of me, and I cannot make a balanced finding on relevancy. In any event, the proposal has been assessed on the basis of the evidence presented, against the development plan and any other relevant material considerations.
27. The Council can demonstrate a five year housing land supply and the presumption in favour of sustainable development is not engaged. Any contribution to housing or other socio economic drivers would be limited in scale and benefit. It is acknowledged that access and highway safety is not disputed by the Council or the highway authority. However, this does not provide a benefit or mitigate the harms identified under the main issues.
28. It is not clear whether planning permission could be granted in light of the identified discrepancies in the plans, but as I am dismissing the appeal for other definitive reasons, I have not probed this matter further.

Conclusion

29. Although the proposal would not harm the character and appearance of the area, it would still harm the living conditions of neighbouring occupiers and be unacceptable in relation to flood risk, conflicting with the development plan as a whole. Consequently, the appeal is dismissed.

Liam Page

INSPECTOR