



Appeal Decision

Site visit made on 17 March 2022

by Chris Couper BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th April 2022

Appeal Ref: APP/Z3635/W/21/3282205

96 Cavendish Road, Sunbury on Thames TW16 7PL

- 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 Kuldip Deol against the decision of the Council of the Borough of Spelthorne.
 - The application Ref 20/00736/FUL, dated 1 July 2020, was refused by notice dated 4 March 2021.
 - The development proposed is a two storey, detached building to include 2 one bed self contained flats with associated parking and amenity space.
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Decision

1. The appeal is allowed and planning permission is granted for a two storey, detached building to include 2 one bed self contained flats with associated parking and amenity space at 96 Cavendish Road, Sunbury on Thames TW16 7PL in accordance with the terms of the application, Ref 20/00736/FUL, dated 1 July 2020, subject to the conditions on the attached schedule.

Application for costs

2. An application for costs was made by Mr Kuldip Deol against the Council of the Borough of Spelthorne. This application will be the subject of a separate decision.

Procedural Matter

3. The appeal was lodged within 6 months of the Council's decision in accordance with the required timescale.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

Character and appearance

5. The host property ('No 96') comprises a large, two storey detached building with a rear extension, and which has been converted into two flats, together with its long rear garden. Elsewhere along Cavendish Road and nearby streets there are many terraces, along with some detached properties. The buildings are typically two storey and set back from the highway, but are fairly mixed in terms of their style, form and materials.

6. On its eastern boundary No 96 has a brick wall, part of which abuts a landscaping strip on Bracken Close. The dwellings in this small cul-de-sac comprise short terraces, finished in brick and render, with Nos 1 to 3 facing Cavendish Road, and Nos 4 to 6 set back slightly from the carriageway to the rear. Adjacent to 100 Cavendish Road is another gap in the street frontage, which provides access to further backland development on Chestnut Close, where the properties do not directly face the road.
7. The proposed building would be located towards the end of No 96's rear garden, and it would be set slightly further back compared to 6 Bracken Close ('No 6'), but similarly orientated to it. Given that the terrace at 4 to 6 Bracken Close is located to the rear of properties facing Cavendish Road, and that it has slightly staggered front and rear elevations, this building's siting would not appear markedly out of place.
8. The proposed building would be seen from Bracken Close particularly through the gap in the wall formed by the proposed driveway. Unlike the other properties on this part of the cul de sac, it would not face a road. To a limited degree, that layout, with this small scale development reached via a short driveway, would give the scheme an ad hoc appearance, which would be slightly divorced from its immediate surroundings.
9. However, having regard to the density of nearby development, along with the size of the retained garden at No 96, and the proposed flats' garden which would exceed the requirements of the Council's Design of Residential Extensions and New Residential Development Supplementary Planning Document 2011 ('SPD'), the scheme would not appear unduly cramped.
10. Vehicles driving to and from the site would join the existing carriageway close to the front of No 6, next to its off-road parking space. However, I am not persuaded that those manoeuvres, which would be occasional and for this small scale development fairly limited, would harm the area's character.
11. Amongst other things and in general terms, Policy EN1 of the Spelthorne Core Strategy and Policies Development Plan Document 2009 requires a high standard of design, and sets out that development should respect and make a positive contribution to the streetscene and the character of the area, paying regard to matters such as the scale, height, proportions, building lines, layout, materials and other characteristics of adjoining buildings and land.
12. For the above reasons, in the context of the wider setting, and as this is a very small cul-de-sac, the scheme would cause only very limited harm to the character and appearance of the area. There would thus be a limited conflict with the development plan, along with the stance in the SPD, that buildings should reflect the existing pattern of development.
13. There would also be a limited conflict with the approach in the National Planning Policy Framework 2021 ('Framework') at section 12, which requires development to be sympathetic to local character and to establish or maintain a strong sense of place.

Other matters

14. I have been provided with a petition, along with photographs and representations which point to parking congestion on Bracken Close. However, I observed how the properties here are typically provided with at least one off

road parking space each; and drawing No. PL/VP/2378-05 Revision A shows how cars could turn on the scheme's forecourt to exit onto Bracken Close in a forward gear. Given that this is a relatively accessible urban location, and as only one bedroom flats are proposed, the proposed parking and turning arrangements, with two off-road spaces depicted, would be adequate.

15. Although Bracken Close has a narrow carriageway, the traffic movements associated with a small scale development such as this would typically be very modest, and given the short length and configuration of this private road, traffic speeds would typically be low. Notwithstanding existing parking congestion, the scheme would not therefore give rise to a significantly harmful impact on highway safety, and I have no cogent evidence that emergency vehicles could not gain suitable access. Whilst Bracken Close is a private road outside of the appellant's control, this is a separate legal matter.
16. The side wall of No 6, whose first floor window I understand serves a stairwell, is set in from the common boundary, as would be the blank side wall of this scheme. Whilst the proposed building's siting would be staggered slightly relative to No 6, drawing No. PL/VP/2378-04 Revision B illustrates that it would not interrupt a 45 degree line drawn from No 6's nearest rear facing habitable room window. Consequently, it would not have a harmful impact on those occupiers' living conditions as a result of a significant loss of privacy or outlook.
17. For similar reasons, and having regard to the sun's trajectory and the scheme's hipped roof form, notwithstanding the large tree in No 6's garden, from the evidence before me I am satisfied that the scheme would not cause significant overshadowing or a significant loss of natural light. A degree of overlooking is common in residential areas such as this, but as there would be no side facing windows in the proposed building, those residents' principal outlook would be over their own communal front and rear garden and parking areas. Reasonable domestic use of the proposed flats would not result in significant noise disturbance.
18. Consequently, applying the aims of the SPD, I am satisfied that the amenity of adjoining occupiers would not be significantly harmed.
19. On my site visit I observed tall trees a little way from the proposed building, including around the end of No 6's garden, but on the basis of the available evidence I am satisfied that no trees which make a significant contribution to the area's character would be adversely impacted.
20. I have no cogent reason to conclude that the scheme would result in compromised security or anti-social behaviour; that the two small flats proposed would have a significant impact on drainage or water supplies; or that an appropriate means of fire escape in accordance with the Building Regulations could not be provided.
21. In its favour, the proposal would make an effective use of previously developed land to add two flats to the Council's housing supply. In those regards, it finds support from the development plan and the Framework. Whilst the contribution to housing supply would be small, it nonetheless constitutes a significant benefit given that the Council cannot demonstrate a five year housing land supply as required by paragraph 74 of the Framework. In these circumstances, and given the latest Housing Delivery Test results, the Framework's presumption in favour of sustainable development applies.

Planning Balance, Conditions and Conclusion

22. I have found that the scheme would cause only very limited harm to the character and appearance of the area. In its favour, it would make a small contribution to housing supply using previously developed land. That is a significant benefit.
23. Having regard to Framework paragraph 11 d) the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits when assessed against its policies taken as a whole. The appeal will therefore be allowed.
24. The Council has proposed a number of conditions, which I have considered against the Framework's tests, making amendments where necessary to improve precision, clarity and enforceability. I have imposed the standard 3 year time limit condition for commencement, as the Council has not clearly justified its suggested 2 year requirement. In the interests of certainty, a condition is necessary requiring that the development be carried out in accordance with the approved plans.
25. I understand that land across the borough has historically been subject to extensive mineral extraction, and that the site is within 250 metres of an historic landfill site. In the interests of future occupiers' living conditions, I have therefore imposed condition no. 3. This is necessary and clearly justified as a pre-commencement condition given that it ensures appropriate control over issues that may arise from the outset of the development. My condition no. 4 ensures that appropriate contamination remediation works are carried out.
26. My condition no. 5 is necessary in the interests of the character and appearance of the area, as is condition no. 6 which is also imposed to protect existing and future occupiers' living conditions. For the latter reason, whilst I am mindful of the advice in the Planning Practice Guidance regarding the removal of permitted development rights, given the staggered relationship of the proposed building relative to No. 6 and its proximity to the rear garden at 98 Cavendish Road, I have imposed a condition removing permitted development rights for the construction of windows above ground floor level in the scheme's side elevations.
27. In the interests of sustainable development, and in accordance with the broad stance in the Design and Access Statement, my condition no. 8 is necessary to ensure that at least 10% of the scheme's energy requirements are generated utilising renewable energy. Condition no. 9 is imposed for a similar reason.
28. Condition no. 10 is necessary in the interests of the convenience of road users. Given that the site is close to a main river and within an area having between a 1 in 100 and 1 in 1000 annual probability of flooding, in accordance with the Environment Agency's advice and the Council's suggestion, my condition no. 11 is necessary.
29. Whilst there would be some disruption and noise to nearby residents during construction, the Council has not suggested a condition requiring the submission of a Construction Management Plan, and given the limited scale of the proposal, I agree that this is not necessary.

30. The Council's Head of Neighbourhood Services raised no objection to the kerbside collection of refuse. A refuse bin storage area within the site is identified on the plans, and a condition requiring the submission of such details is therefore unnecessary.
31. For the above reasons, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. Having regard to all other matters raised, the appeal is therefore allowed.

Chris Couper

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: PL/VP/2378-00 Revision C, PL/VP/2378-01 Revision A, PL/VP/2378-02 Revision A, PL/VP/2378-03 Revision A, PL/VP/2378-04 Revision B, and PL/VP/2378-05 Revision A.
3. Prior to the commencement of development, a survey report detailing ground conditions of the site shall be submitted to and approved in writing by the local planning authority. Where made ground or contamination is encountered, a scheme to investigate, assess and remediate contamination risks shall be agreed in writing with the local planning authority, and shall be carried out in accordance with the agreed details and timetable.
4. Prior to the first use or occupation of the development, and on completion of the agreed contamination remediation works, a validation report that demonstrates the effectiveness of the remediation carried out shall be submitted to and agreed in writing by the local planning authority.
5. No development above damp course level shall take place until details of the materials to be used for the external surfaces of the building and surface material for parking areas have been submitted to and approved in writing by the local planning authority. The development shall thereafter be constructed in accordance with the approved materials and detailing.
6. Prior to first occupation of the development, a scheme shall be submitted to and approved in writing by the local planning authority indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the building is occupied, and retained thereafter.
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows above ground floor level shall be constructed on the building's eastern and western elevations.
8. Prior to the first occupation of the development, a report shall be submitted to, and agreed in writing by, the local planning authority, which shall include details to demonstrate how 10% of the energy requirements generated by the development will be achieved utilising renewable energy methods. The report shall identify how renewable energy, passive energy and efficiency measures will be generated and utilised to meet the scheme's requirements. The agreed measures shall be implemented prior to the first occupation of the development, and shall thereafter be retained.
9. Prior to the first occupation of the development, a scheme shall be submitted to and approved in writing by the local planning authority to demonstrate that at least one of the parking spaces will be provided with a fast charge socket. The approved scheme shall be implemented prior to the first occupation of the development, and shall thereafter be retained.

10. Prior to the first occupation of the development, the parking spaces and vehicular access as shown on the submitted plan shall be constructed and made available, and shall thereafter be retained for their intended purpose.
11. There shall be no raising of existing ground levels on the site within the 1:1000 year flood event area, and all spoil and building materials stored on site before and during construction shall be removed from the area of land liable to flood upon completion of the development.
