



Appeal Decision

Site visit made on 20 September 2022

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2022

Appeal Ref: APP/Z3635/W/22/3298205

72 Thames Street, Sunbury-on-Thames, TW16 6AF

- 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 and Mrs William and Joanna Brogan Higgins against the decision of Spelthorne Borough Council.
 - The application Ref 22/00069/HOU, dated 14 January 2022, was refused by notice dated 14 March 2022.
 - The development proposed is an extension to rear along with creation of a new floor and rooms within the roof.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council's decision notice contained one reason for refusal. It is clear from reading the officer report and subsequent appeal statement that the Council had objections to the effect of the proposal on the neighbouring occupier but this was not included within the reason for refusal. In the interests of fairness, the appellant has been given a formal opportunity to provide comments on this particular matter and I shall deal with it as a main issue.

Main Issues

3. The main issues are therefore the effect of the proposed development on (a) the character and appearance of the area with particular regard as to whether or not it would preserve or enhance the character or appearance of the Lower Sunbury Conservation Area (LSCA) or effect the setting of a nearby listed building; and (b) the living conditions of neighbouring occupiers, with particular regard to a loss of privacy and whether or not the proposal would be overbearing.

Reasons

Character and Appearance

Conservation Area

4. S.72 of the Act¹ requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. Paragraph 199 of the National Planning Policy Framework (Framework) states that, when considering the impact of a proposed development on the

¹ Planning (Listed Buildings and Conservation Areas) Act 1990

significance of a designated heritage asset, such as a conservation area, great weight should be given to the asset's conservation.

5. The LSCA is centred on Thames Street, which runs parallel to the River Thames. Buildings closest to the river generally turn their backs to it. There are also some substantial areas of public open space at either end of the LSCA that are adjacent to the river. Thus, a part of the character and appearance of the LSCA stems from its relationship with the river and the mixture of expansive and more intimate views of the water.
6. There are a variety of historical buildings within the LSCA with a number of residential properties sitting alongside commercial units and with some business activities next to the river. Buildings are generally tightly packed and display a variety of styles and heights, which given their position close to roads, combine to offer a pleasant and intimate street scene and layout. The buildings and their relationship with the pattern and layout of the roads reflects the historic development of the area and contributes to the significance of the LSCA.
7. The appeal building is detached and is located centrally within the LSCA. It occupies a prominent position, next to both the River Thames and an area of public open space. Due to the sloping nature of the site, the existing building presents as a single storey to Thames Street but is two storeys at the rear. Its long, low frontage compared to other buildings in the vicinity, together with its design, appearance and car parking provision marks it out as a more recent building within the LSCA. It does not reflect the prevailing character or style of other nearby buildings in the area. Regardless of the reasons for this, the building's current height helps to minimise its effect on the LSCA.
8. The proposal would see the existing building extensively remodelled and extended, both to the rear and upwards. The proposal would result in the dwelling presenting to Thames Street as a full two storey dwelling, with a small dormer indicating accommodation in the roof. To the rear, the building's ground floor terrace over the lower ground floor base would be evident as would the three larger roof dormers.
9. Small dormer windows are not an uncommon feature on the fronts of properties further east along Thames Street. However, incorporating accommodation at roof level into the design of the building does contribute to increasing its overall bulk and mass.
10. Whilst the ridge of the building would be below that of No.70 Thames Street, the building's increased depth and height would in combination give the resulting structure a significant mass and bulk within the street scene. It would not form, nor would it be read, as part of the existing terrace of buildings on the south side of Thames Street, which positively contribute to the overall character of the area. Similarly, unlike Orchard House, a large, detached building diagonally across the road, it would not be noticeably set back from its site frontage or demonstrably be set within a more generous plot than other nearby buildings.
11. Instead, it would be a large prominent building that would dominate the street scene, particularly when viewed from the west. It would partially obscure views of the pleasant, more intimate street scene and vista further to the east of the appeal site. Whilst prominence and visibility in themselves are not reasons

to reject a scheme, I find that the proposal would disrupt and not reflect the pattern and type of development that typifies the LSCA.

12. Whilst the proposal seeks to create a better sense of arrival and a positive 'gateway' feature, the resulting building through its increased height, mass and bulk fails to have sufficient regard to its existing context. As a result, it would harmfully erode the significance of this sensitive and historic area.
13. The remodelled dwelling would change its relationship with the adjacent public open space, by having a greater physical presence and becoming more visually prominent. However, there are two storey buildings which address the other end of this open space. Thus, a larger building at the appeal site may not necessarily be harmful to the open space.
14. However, an important factor is that the appeal site has a taller listed building next to it. I have already noted the effect of the proposal on the wider area. As I observe below in more detail, it is also how one views the adjacent listed building when positioned to the west of the appeal site, including from the open space, which to my mind is the key issue rather than simply the building's height or prominence in relation to the public open space itself.
15. The design and appearance of the existing dwelling is somewhat at odds with the prevailing character and appearance of the area. The proposal would replace it with a design that incorporates cues taken from nearby buildings and would utilise sympathetic finished materials. However, these measures would do little to reduce the visual impact of the overall height, mass and bulk of the building on the streetscape.
16. Given my observations above, the level of harm I would attribute to this would be less than substantial. Nevertheless, the Framework advises that considerable importance and great weight should still be given to the conservation of this designated heritage asset when balancing the harm against any public benefits. This is a matter I return to below.

Listed Building

17. S.66 of the Act requires me, when considering whether to permit development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
18. Nos. 66, 68 and 70 Thames Street form a Grade II listed terrace. Nos. 66 and 68 form a pair of similarly sized dwellings whilst No.70 is a larger, end of terrace building. Their significance derives from their architectural and historic interest, dating from around the mid-18th century and containing fabric and artistic elements from that time.
19. The frontages are generally set slightly back from the public footpath along Thames Street but nonetheless the buildings' setting is derived in part from their relationship with each other and the immediate environs of Thames Street. Whilst the proposal would not directly affect the space immediately in front of the listed buildings, the increase in the scale, and in particular the height of the appeal building would increase the intervisibility with No.70.
20. In wider views from the west of the listed buildings and appeal site, No.70 and its prominence and position as end to the terrace, would be diminished. As a

result, from some viewpoints it would be harder to appreciate the relationship between the listed building and Thames Street.

21. Whilst some modern development has intruded into the setting of No.70, the proposal would not sustain or enhance the character of the space around the listed building, instead being likely to draw the eye and distract from the position and significance of the listed building at the end of the terrace. As a result, it would be harder to appreciate the side elevation, either as part of the larger building or for its fabric and individual elements, something which the current situation and setting more readily allows.
22. Whilst the extended building would be no closer to the listed building than existing, by introducing this scale of development into the immediate environs of No.70 the proposal would fail to preserve the setting of this listed building, thereby detracting from its significance.
23. The list description does not reference the side of No.70. However, even relatively recent list descriptions are not always comprehensive accounts of a building's special interest and the omission of something does not mean it is not of merit.
24. The fabric of the listed building itself would not be harmed and so the harm to its significance would, in my judgement, be less than substantial in the terms of the Framework. The Framework therefore advises that this harm should be weighed against the public benefits of the proposal.

Heritage Balance

25. I have found less than substantial harm in relation to two designated heritage assets. In accordance with Paragraph 202 of the Framework, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
26. The appellant has not specifically put forward any public benefits. However, the proposal would remodel the existing dwelling and remove what is clearly an uncharacteristic building from the LSCA. The scheme would also incorporate design cues that are more reflective of the neighbouring buildings and area. There would be associated social and economic benefits although some of these would be limited by virtue of time and the scale of the proposal. Overall and for these reasons, the public benefits would be modest.
27. In coming to my decision in accordance with Sections 66 and 72 of the Act, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the LSCA and have had special regard to the desirability of preserving the setting of the listed building. I have attached considerable importance and weight to this desirability. I therefore conclude that the modest public benefits would not outweigh the harm caused to the heritage assets.

Findings

28. Having regard to the above, I find that the proposal would be harmful to the character and appearance of the area. The proposal would therefore be contrary to Policies EN1, EN5 and EN6 of the Core Strategy and Policies Development Plan Document 2009 (DPD) which, amongst other things, require

developments to respect the character of the street scene and conserve heritage assets. The proposal would also conflict with the Framework insofar as it seeks, amongst other things, to ensure that developments are sympathetic to local character and that heritage assets are conserved in a manner appropriate to their significance.

Living Conditions

29. The proposal would retain the ground and lower ground floor terraces, in a broadly similar arrangement to the existing. At first floor level the conservatory would be replaced by a balcony area which is referred to on the drawings as a terrace. It would be positioned closer to the boundary with the neighbour at No.70 Thames Street than the existing conservatory.
30. The resulting building would undoubtedly be noticeable to the neighbour at No.70 although the increased glazing on the rear elevation would be less obvious to them. In summer months/hot weather a terrace is likely to be used more than a conservatory, which can retain heat and become a less pleasant environment, especially when south facing. At these times the neighbour is also likely to be using their garden and so will be more aware of the neighbour and this terrace.
31. If I were minded to allow the appeal any concerns with regard to direct overlooking from the first floor terrace could be addressed by a condition requiring the submission of details of a suitable screen at the eastern end of it. On this basis, the effect would mainly be in terms of a heightened awareness of the terrace, rather than there being direct overlooking.
32. At roof level, the central dormer would incorporate glazed doors and a Juliette style balcony that would appear to be set away from the opening. This appears to create a platform just wide enough to enable a person to step beyond the internal accommodation. Its position, the nature of the space and the accommodation it would serve would be likely to limit the extent to which it would be used and thus the extent of any actual or perceived overlooking that would occur.
33. No.70 is already said to be overlooked from the existing balcony at No.66 Thames Street. Whilst this in itself does not provide reason to allow harmful overlooking, it points to a level of mutual overlooking and perception of overlooking which already exists in the area.
34. The proposed alterations will increase the scale of building and make the building's existence more evident to the neighbour. However, I am satisfied that the degree to which the rear elevation would affect the privacy or perception of overlooking experienced by the neighbour would not be of a level to warrant rejection of the proposal.
35. At each floor, the side elevation of No.70 contains two 6 over 6 sash windows which directly face the appeal site. They appear to serve rooms which have another window on either the north or south elevations. Clearly the building was designed as an end of terrace and these windows were no doubt integral to the overall internal accommodation as well as the external appearance of the building. The side elevation is also adorned by a wisteria plant which at the time of my visit extended across the front elevations of Nos. 68 and 70.

36. Although the appellant has not provided any sunlight or daylight studies, a drawing has been provided which illustrates that the proposal would not interfere with the 45° guideline for principal side windows, as set out in the Council's Design of Residential Extensions and New Residential Development Supplementary Planning Document (2011). I have not been presented with any substantive evidence to demonstrate that the proposal would unacceptably affect sun or daylight to the side of the house or to the windows themselves. Similarly, there are no substantive grounds advanced to indicate that a measure other than the 45° line should be used in this case.
37. Given the height and depth of the remodelled building, it would clearly be visible from the neighbour's side windows and interrupt views westwards as well as some longer distance views across the River Thames. As a result, the neighbour's outlook would be altered. Whilst I have found the height of the building to be harmful in respect of the setting of No.70, a building of slightly lower height to No.70, that retains the existing separation distance would not appear to be so impactful that it would amount to being overbearing.
38. My final judgement is that the living conditions of the neighbours would not be harmed by the proposal. Accordingly, it would accord with Policy EN1 of the DPD which, amongst other things, seeks to protect neighbouring occupants from significant harmful impacts in terms of loss of privacy, daylight or sunlight, or overbearing effect due to bulk or proximity.

Other Matters

39. There are a number of matters to which I am referred, and which are said to not raise any concerns. These include flood risk, trees and landscaping, energy consumption, parking provision etc. Compliance with guidance and policy on such matters would be expected as part of any development and therefore do not positively weigh in favour of the scheme in any balance.
40. Both the existing and resulting building are described by the appellant as a two-storey dwelling with four bedrooms. However, such a description does not detail the extent of the works or their effects and so does not in itself justify the proposal.

Conclusion

41. For the reasons given above, I conclude that the appeal scheme conflicts with the development plan when taken as a whole. I have found in the appellant's favour with regard to the effects on the living conditions of neighbours, but this does not outweigh the totality of the harm I have identified. There are no material considerations, including the Framework, that indicate the decision should be made other than in accordance with the development plan.
42. Therefore, for the reasons given, the appeal is dismissed.

Stewart Glassar

INSPECTOR