



Appeal Decisions

Site visit made on 31 October 2022

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 NOVEMBER 2022

Appeal A Ref: APP/Z3635/W/22/3301717

Glenmore, Green Street, Sunbury-on-Thames, Surrey TW16 6QB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Sam Rosenthal of Inglewood Estates Ltd against the decision of Spelthorne Borough Council.
 - The application Ref 22/00492/RVC, dated 4 April 2022, was refused by notice dated 15 June 2022.
 - The application sought planning permission for the conversion of a House of Multiple Occupation (HMO) to 8 residential flats involving extension and alteration to front and rear with associated parking, refuse storage and amenity space without complying with a condition attached to planning permission Ref 20/00052/FUL, dated 20 August 2020.
 - The condition in dispute is No 2 which states that: *The development hereby permitted shall be carried out in accordance with the following approved plans and drawings: - 19.1183/003, 004, 005, 006, 007, 008, 011, 012, 013, 015 received on 16 Jan 2020, amended plan no. 010 Rev A, 014 Rev A and 014 Rev A received on 12 March 2020 and 090 Rev A received on 17 July 2020.*
 - The reason given for the condition is: *For the avoidance of doubt and in the interest of proper planning.*
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Appeal B Ref: APP/Z3635/W/22/3291625

Glenmore, Green Street, Sunbury-on-Thames TW16 6QB

- 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 S Rosenthal of Inglewood Estates Ltd against the decision of Spelthorne Borough Council.
 - The application Ref 21/01706/FUL, dated 1 November 2021, was refused by notice dated 22 December 2021.
 - The development proposed is conversion of House of Multiple Occupation (HMO) to 9 residential flats involving extension and alteration to front and rear with associated parking, refuse storage and amenity space.
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Decision

1. Appeal A and Appeal B are both dismissed.

Procedural Matter

2. The consequence of not complying with Condition 2 attached to planning approval Ref 20/00052/FUL would be to modify the approved plans to allow use of the roofspace to enlarge some of the dwellings compared to the approved scheme.

Main Issues

3. With reference to Appeal A, the main issues are the effect of the development on:
 - the living conditions of future occupiers, with particular reference to private amenity space and off-street parking; and
 - the living conditions of existing neighbouring residents, with particular reference to an intensification in on-street parking in the surrounding area.
4. With reference to Appeal B, the main issues are the same as Appeal A, with an additional main issue in respect of the effect of the development on the character of the area, with respect to density.

Reasons

Appeal A and Appeal B

Living Conditions of Future Occupiers

5. Planning permission¹ has been granted to convert, extend and alter the existing building into 8 flats. At the time of my site visit, the development had already commenced on site.
6. Appeal A would utilise the roofspace of the building to create an additional bedroom each for three of the four first floor flats and reorganise the internal layout of the building to increase the number of two bedroomed flats (although one flat could comprise three bedrooms). Appeal B proposes an additional two-bedroomed flat within the roofspace of the building.
7. Both appeal proposals have the potential to be occupied by more families than the previously approved scheme; would result in an increase in the total number of people occupying the building as a whole; and would result in an increase in the intensity of use. This in turn would result in more noise and disturbance, such as from children playing and more comings and goings from future occupiers.
8. In respect of Appeal A, the additional rooms proposed in the roofspace to serve flats 6, 7 and 8 would not wholly be positioned over the corresponding flat below. For example, the bedroom to flat 6 would be above the open plan living/dining/kitchen area of flat 5 below. This has the potential to cause conflict between future occupiers. Furthermore, the proposed rooms in the roofspace of Appeal A would be served by rooflights, which would have a restrictive outlook for future occupiers. Also, flat 7 would not have a dual aspect, and unlike flats 2 and 3 that also do not benefit from a dual aspect, it would not have a rear garden.
9. All bar one of the flats in the previously approved scheme had access to either a garden or a balcony, and the flat that had neither, had one bedroom and therefore would likely be occupied by an individual or couple, rather than a family. In addition, two out of three of the two-bedroomed flats had a garden. In contrast, the flat that would have neither a garden nor a balcony in Appeal A would have two bedrooms and is therefore more likely to be occupied by a

¹ Planning Ref 20/00052/FUL

- family. Furthermore, all of the first floor flats in Appeal A would have two bedrooms, whilst the additional flat in Appeal B would have two bedrooms and a balcony.
10. The Design of Residential Extensions and New Residential Development Supplementary Planning Document (SPD) details the minimum amenity space for flats and states that dwellings designed for family accommodation need to have sufficient garden space which is suitable in size and shape. I recognise that the proposed flats would comply with the Nationally Described Space Standards. However, this is regarding internal space, not private amenity space.
 11. One of the two-bedroomed flats does not have access to a garden or a balcony, whilst the size of the balconies for the remaining two-bedroomed first floor flats proposed by Appeal A do not comply with the sizes detailed within the SPD. This is echoed in the size of the balcony proposed for the additional two-bedroomed flat in Appeal B. I acknowledge that the previously approved scheme had similar sized balconies. However, all but one of those flats have one bedroom and therefore they are unlikely to be occupied by a family.
 12. Parking standards are detailed within the Parking Standards Supplementary Planning Guidance, adopted 2001 and updated 2011 (SPG). Both Appeal A and Appeal B do not comply with the minimum standards detailed in the SPG and therefore both proposals would have an under-provision of off-street parking spaces. However, the previously approved scheme did not comply with the parking standards detailed in the SPG and it was not considered to affect the living conditions of future occupiers from an insufficient level of off-street parking.
 13. Furthermore, potential occupiers of the proposed flats would be aware of the parking restrictions on Green Street and within the surrounding area, and the potential parking difficulties that would be faced by those who rely upon private vehicle use. Occupiers of the flats would also be aware that the appeal site is in close walking distance of Sunbury train station and bus stops on both Green Street and Nursery Road, and its proximity to shops, services and facilities, including those at Sunbury Cross. In addition, both proposals include the provision of secure cycle storage areas, the implementation and retention of which, could be secured by planning condition. Therefore, future occupiers of the proposed flats would have access to a range of services, facilities and sustainable modes of transport without needing to rely on the private car.
 14. I acknowledge that Appeal A would result in a greater number of two bedroomed units that may result in more families occupying the flats, and Appeal B would increase the total number of flats to nine. However, I am not persuaded from the evidence before me that such changes are significantly different to the previously approved scheme in terms of demand for parking space, particularly given that future occupants would not be reliant of the private car to meet their day-to-day needs.
 15. In reference to the first main issue, I have not found harm to the living conditions of future occupiers from an inadequate level of off-street parking. However, I have found harm to the living conditions of future occupiers due to an inadequate level of private amenity space and poor arrangements relating to the position of internal space, restricted outlook and aspect. Appeal A and Appeal B are therefore contrary to policy EN1 of the Spelthorne Borough

Council Core Strategy and Policies Development Plan Document, adopted 2009 (CS) which seeks to achieve a satisfactory relationship to adjoining properties. The proposals are also contrary to the SPD regarding new residential development and the National Planning Policy Framework (NPPF) that seeks to create places with a high standard of amenity for existing and future users.

Appeal A and B

Living Conditions of Neighbouring Occupiers

16. Green Street is a busy thoroughfare, which is also a bus route and provides direct access to and from the M3 motorway. Opposite the appeal site is a primary school, whilst other schools are in close proximity. Parking is restricted in the vicinity of the appeal site by 'School Keep Clear' road markings, bollards, pedestrian crossings and single yellow lines preventing parking Monday to Friday 8am – 5pm.
17. As previously discussed, both Appeal A and Appeal B would have an under-provision of on-site parking. Therefore, concern has been raised over undue stress the proposed development may cause to existing residents from not being able to park within proximity of their homes, because of the additional demand placed on on-street parking spaces in the neighbourhood.
18. I recognise that parking issues in the surrounding area may have evolved over time, as new developments are built or changed. However, the majority of the dwellings in the surrounding area have off-street parking. Residential streets off Green Street and Nursery Road provide opportunities for vehicles to park unrestricted and at the time of my site visit, on-street parking spaces were available. I recognise that this is a snapshot in time and was during the day when residents are less likely to be at home. However, the Council also undertook a parking survey in the evening that concluded that some spaces were available on the surrounding residential roads.
19. I recognise that parking in the surrounding area may be problematic at times due to the number of schools in proximity to the appeal site, in addition to such traffic generating uses as a church, a health centre, a leisure centre and recreation grounds. However, these occurrences would be limited to particular times of the day and for short periods of time.
20. As previously detailed, the appeal site has planning approval² to be converted into eight flats that would also have an under-provision of on-site parking. I am therefore not persuaded from the evidence before me that the changes proposed by Appeal A and Appeal B would likely generate significantly greater parking demand in the surrounding area than the approved scheme.
21. In reference to the second main issue, the proposals within Appeal A and Appeal B would not significantly harm the living conditions of neighbouring residents in respect of an intensification of on-street parking in the surrounding area. The proposals would therefore comply with Policy CC3 of the CS that seeks to require appropriate provision to be made for off-street parking in development proposals. The proposals would also comply with the SPG in respect of parking standards.

² Planning Ref 20/00052/FUL

Appeal B

Character

22. Policy HO5 of the Spelthorne Borough Council Core Strategy and Policies Development Plan Document, adopted 2009 (CS) sets out the minimum and maximum density of housing developments within different parts of the borough. Paragraph 125 of the National Planning Policy Framework (NPPF), however, only includes the provision of minimum densities for housing developments, and states that plans should contain policies to optimise the use of land in their area and meet as much of the identified need for housing as possible. CS Policy HO5 is therefore inconsistent in this regard. On this basis, I attach limited weight to the maximum densities detailed within CS Policy HOU5.
23. CS Policy HO5 also recognises that higher density development may be acceptable where it can be demonstrated that the development complies with Policy EN1 on design, particularly in terms of its compatibility with the character of the area and is in a location that is accessible by non car-based modes of travel.
24. As previously described, the appeal site is located within a location that is accessible by non car-based modes of transport. Planning permission was previously approved³ by the Council for the conversion of the HMO to 8 residential flats that included the extension and alteration of the building to the front and rear. Appeal B includes the same rear extensions as previously approved but also proposes minor changes to the front elevation and to the roof. However, the scale and design of the building would not be significantly altered from that previously granted planning permission. Furthermore, the Council has not raised concerns regarding the proposed development on this basis.
25. In reference to the third main issue, Appeal B would not affect the character of the area. The proposal would comply with Policies HO5 and EN1 of the CS, which amongst other things, seek to ensure that higher density developments are compatible with the character of the area and are sited within a location that is accessible by non car-based modes of travel.

Planning Balance

26. The Council has stated that it is unable to demonstrate a five-year housing land supply of deliverable sites. As such, the relevant policies for the supply of housing should not be considered up-to-date and paragraph 11(d) of the NPPF is engaged, the relevant part of which states, "where the policies which are the most important for determining the application are out-of-date, granting planning permission unless: (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework as a whole".
27. The Council has stated that it currently has a housing supply of deliverable sites of 4.8 years. This is not a significant shortfall. However, the Council has also stated that they are currently not meeting the Housing Delivery Test.

³ Planning Ref 20/00052/FUL

28. The provision of one additional dwelling in Appeal B, in an area identified as suitable for additional residential development, weighs in favour of the proposal and would make a contribution to the delivery of housing in the borough and the Government's objective of significantly boosting the supply of new homes. Both proposals would also provide some economic benefits in the form of short-term employment through the construction of the development and additional support to the local community from future occupiers using local facilities and services. However, given the nature and scale of the proposed developments, the benefits would be relatively limited, even when considered cumulatively with other similar developments. Accordingly, the benefits attract moderate weight in favour of the scheme.
29. Against these benefits is the harm that would be caused to the living conditions of future occupiers. These matters attract substantial weight given the harm identified would be contrary to the design objectives of both the development plan and the NPPF.
30. Consequently, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Conclusion

31. I have found for the appellant in regard to the living conditions of future occupiers from an inadequate level of off-street parking, the living conditions of neighbouring residents in respect of an intensification of on-street parking in the surrounding area, and the effect of the proposal on the character of the area in terms of density. However, the lack of harm in these respects would be insufficient to weigh against my findings and subsequent conflict with the development plan in respect of the effect of the development on the living conditions of future occupiers from an overdevelopment of the site and insufficient amenity space.
32. For the reasons given above, having considered the development plan as a whole and all other material consideration, I conclude that Appeal A and Appeal B are dismissed.

A Berry

INSPECTOR