



Appeal Decision

Site visit made on 30 November 2022

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 APRIL 2023

Appeal Ref: APP/Q3630/W/22/3295828

9 The Broadway, New Haw KT15 3ES

- 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 Dennis Read on the behalf of Crestrock Investments Ltd against the decision of Runnymede Borough Council.
 - The application Ref RU.21/1338, dated 26 July 2021, was refused by notice dated 20 December 2021.
 - The development proposed is described as 'demolition of existing storage units and the erection of a new two storey building to contain a one bedroom dwelling above a self-contained commercial unit Class E (a,b,c) with associated parking and landscaping.'
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing storage units and the erection of a new two storey building to contain a one bedroom dwelling above a self-contained commercial unit Class E (a,b,c) with associated parking and landscaping at 9 The Broadway, New Haw KT15 3ES in accordance with the terms of the application, Ref RU.21/1338, dated 26 July 2021, subject to the conditions in the attached schedule.

Procedural Issues

2. As part of the appeal an additional plan has been submitted showing the location of a proposed cycle store for 2 cycles. This plan has not been consulted on. Therefore, to ensure that no parties are prejudiced, I shall determine the appeal on the basis of the plans which informed the Council's decision and are referred to on the decision notice. Furthermore, as set out below, the provision of a secure, covered, and lit cycle store for 2 cycles can be secured by condition.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area; and
 - whether the proposal would provide satisfactory living conditions for future occupants, specifically relating to outlook and the amount of private outdoor space.

Reasons

Character and Appearance

4. The site is located on the edge of the local centre to the rear of No. 9 The Broadway, which forms part of a 2-storey shopping parade comprising commercial units at ground floor level with residential units above. However, it is accessed from Amis Avenue, which leads away from the local centre and is made up of a variety of 1 and 2-storey residential properties. The site therefore relates to both The Broadway and Amis Avenue and provides a transition between the mixed-use local centre and residential area.
5. The properties along Amis Avenue vary in their style, materials, and features as do the buildings on The Broadway, which adds diversity to the character and appearance of the area. The houses are set back a moderate distance from the highway, which together with their modest scale and gaps between the properties, creates a sense of spaciousness.
6. The proposed building would be situated at the rear of the site and would abut the boundaries with the neighbouring property, No. 7 The Broadway, and the rear access road. Although it would be positioned further forward than the houses along Amis Avenue, it would be set back slightly from the edge of the footway in line with the side elevation of No. 9 The Broadway. This would be similar to the positioning of the mixed-use building opposite. It would also reflect the local pattern of development that comprises ground floor commercial units positioned close to or on the edge of the footway.
7. Furthermore, the gaps between the proposal and its neighbours, No. 9 The Broadway and No. 1 Amis Avenue would be greater than the gaps between most of the houses along Amis Avenue. Given this, and that the proposed building would be of a modest scale, similar to the houses, it would preserve the sense of spaciousness and would not appear cramped.
8. The proposal addresses Amis Avenue well, with an active frontage on the ground floor comprising a large window to the commercial unit and customer entrance, and large window above serving the residential property. Although the entrance to the residential unit and first-floor external terrace would be located on the elevation facing the rear of No. 9 The Broadway, they have been designed to front Amis Avenue. Consequently, this elevation would appear secondary to the Amis Avenue elevation and the orientation of the proposed building would not appear at odds with the local pattern of development.
9. In terms of appearance, I saw on my visit that nearby buildings on Amis Avenue and The Broadway include gable ends and other gable style features, as well as timber style cladding and light brick. Therefore, while the gable end design of the proposal, its red cedar cladding, light brick and rooflights may make it noticeable in the street-scene it would not appear overly dominant or incongruous. These features and materials reflect some of those used in the immediate area and would add to the diversity that forms part of the local character and appearance.
10. I acknowledge that there have been previous schemes on the site, which the Council considered to be the same as the proposal in terms of their design and scale, that were refused for being prominent and cramped forms of development. I do not have the full details of these applications before me, and

the descriptions of the development set out in the Officer's Report appear to differ from the appeal proposal. In any event, I have judged the proposal on its own merits based on the evidence and my own observations and concluded that it would not result in an incongruous or cramped form of development.

11. For the reasons above, the proposal would be of a high quality that responds well to the local context and would enhance the quality of the public realm. It would accord with Policy EE1 of the Runnymede 2030 Local Plan (2020) (Local Plan) and the Runnymede Design Supplementary Planning Document (2021) (SPD) which seek to achieve high quality and inclusive design which responds to the local context. It would also accord with the aims of the National Planning Policy Framework (the Framework) to create high quality, beautiful and sustainable buildings and places, which are sympathetic to local character.

Living Conditions

12. To mitigate potential overlooking of the residential units above No. 9 The Broadway, the terrace includes a louvered cedar privacy screen. While this would restrict the principal outlook from the bedroom it would not obscure views in this direction completely, particularly sky views. Also, given the doors accessing the terrace would be large, the side of the terrace fronting Amis Avenue, which would be open, would also provide some outlook from the bedroom. Overall, sufficient outlook would be provided and therefore the proposal would not lead to unacceptable living conditions for future occupants of the unit in this regard.
13. In terms of external space, the proposed residential unit would benefit from the terrace, as well as a shared external space located between the proposed building, the rear of No. 9 The Broadway and proposed parking spaces. The plans show this space would be laid to lawn with a central tree and perimeter hedge and shrubs. Although this space would be relatively hemmed in when vehicles are parked and would be adjacent to the proposed bin storage unit, it would provide an alternative useable outdoor space to the terrace. The SPD recognises that in urban areas external space is generally less and in town centres this may mean more compact garden space or compensatory provision of roof space or balconies. Taking this into account and given that the residential unit would comprise of a 1-bedroom flat rather than a family-sized unit, the amount of private external space would not result in unacceptable living conditions for future occupants of the unit. Furthermore, the limited amount of private external space would be moderated by the proximity of Woodham Lodge Open Space, which provides a generous sized public open space.
14. For the reasons above, the proposal would provide sufficient outlook and adequate private external space for future occupants. It would therefore accord with Policy EE1 of the Local Plan and the SPD, which seek to ensure there is no adverse impact on the amenities of occupiers of the development proposed by providing, amongst other things, access to usable outdoor space. It would also accord with the aims of the Framework to create places with a high standard of amenity for future users.

Thames Basin Heaths Special Protection Area

15. The site lies within 5km of the Thames Basin Heaths Special Protection Area (TBHSPA) The TBHSPA is designated for internationally important birds,

providing habitat for woodlark, nightjar, and Dartford warbler. These birds' nest on or near the ground and as a result they are very susceptible to predation of adults, chicks, and eggs, particularly by cats, rats and crows, and to disturbance from informal recreational use, especially walking, cycling and dog walking.

16. The Council have a TBHSPA Supplementary Planning Document (2021) (SPD) that sets out its strategy to avoid and mitigate the impacts of development upon the integrity of the TBHSPA. The SPD reflects the guidelines set out in the TBHSPA Delivery Framework which is endorsed by Natural England.
17. The SPD advises that any net increase in residential dwellings within 5km of the TBHSPA is likely to have a significant adverse effect on the TBHSPA either alone or in combination with other plans or projects. Therefore, likely significant effects on the TBHSPA as a result of the proposal cannot be ruled out in the absence of mitigation. It is therefore necessary for me, as competent authority under the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations), to conduct an Appropriate Assessment in relation to the significant effects of the proposal on the integrity of the TBHSPA.
18. Two avoidance measures to protect the TBHSPA from the adverse impacts of new residential development are promoted by Natural England and required by the SPD. These are the provision of Suitable Alternative Natural Greenspace (SANG) to attract people away from the TBHSPA and thus reduce pressure on it and Strategic Access Management and Monitoring (SAMM) to reduce the impact of visitors. The SPD sets out details of these mitigation measures. New development would be required to make financial contributions towards both SANG and SAMM, and the SPD sets out the required tariffs. Natural England have advised that they have no objection to the proposal provided it complies with the SPD by securing contributions to SANG and SAMM through a legal agreement.
19. A signed Unilateral Undertaking has been submitted by the appellant and accepted by the Council. This would provide a financial contribution of £1264.90 towards SANG and £504 towards SAMM.
20. Paragraph 57 of the Framework and Regulation 122 of the CIL Regulations sets out three tests that planning obligations must meet. Firstly, they must be necessary to make the development acceptable in planning terms, secondly, they must be directly related to the development and thirdly they must be fairly and reasonably related in scale and kind to the development.
21. I am satisfied that the financial contributions are necessary to make the proposed development acceptable in planning terms by both reducing recreational pressure on the TBHSPA and reducing the impact of visitors. Given the proposal would provide a new residential unit within 5km of the TBHSPA, the contribution is directly related to the appeal scheme. In addition, as it relates to a standard charge on all residential development based on occupancy, it is fairly and reasonably related in scale and kind to the development. For these reasons, the planning obligation would meet the requirements of the Framework and the CIL Regulations.
22. For the reasons above, I am satisfied that with the proposed avoidance and mitigation measures in place, secured through a planning obligation, the proposal would not have an adverse effect on the integrity of the TBHSPA. It

would accord with Policy EE10 of the Local Plan, which seeks to protect the integrity of the TBHSPA and the aim of the Framework to protect and enhance biodiversity.

Other Matters

23. I note the concerns raised by those nearby regarding the effect of the proposal on highway safety. I appreciate that a new development has the potential to increase pressure on parking and may cause concerns regarding highway safety. However, given there is an existing access to the site and the proposal would provide 3 parking spaces, I am of the view that unacceptable effects would not result in this regard. The provision of fast charge sockets for electric vehicles can be secured by condition and the maintenance of the service road is a private matter between the parties involved.
24. Third parties have also raised concerns regarding the living conditions of the occupants of neighbouring properties with regards to outlook and privacy. The Council consider the proposed privacy screening to the terrace and obscure glazing to the first-floor windows facing the rear of No. 9 The Broadway to mitigate any harmful overlooking or loss of privacy to neighbouring flats. They acknowledge that there would be a change in outlook for some neighbouring occupants but, given the positioning of the proposal, do not consider this to be unacceptable. Based on the evidence before me and my observations on site, I am also of the view that no unacceptable effects would result in this regard.

Conditions

25. The Council have suggested that 19 conditions be imposed, which I conclude on below. In imposing conditions, I have had regard to the approach in the Framework and the Planning Practice Guidance. I have accordingly modified the wording or form of certain conditions without altering their fundamental aims. The numbers given in the brackets (X) refer to the condition being imposed, with the order being prescribed by the time when the condition needs to be complied with.
26. In addition to the statutory time limit condition (1), a condition specifying the plans that are approved and that the development shall be undertaken in accordance with them (2) is required in the interests of certainty. To protect the character and appearance of the area, it is also necessary to impose a condition requiring details of the external surfaces of the development.
27. For the same reason, and to ensure adequate living conditions for future and neighbouring occupants, it is necessary to impose a condition requiring the proposed bins and bin storage are provided prior to occupation (13). To also ensure adequate living conditions for future and neighbouring occupants, conditions are necessary to require the details of the soundproofing (8) to be incorporated in the building as well as the details of the equipment for extraction and filtration (14) and ground source heat pumps (18), where appropriate. I have amended the condition regarding extraction and filtration so that the description of the Class E(b) use reflects the wording used in the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020. I have also required details of the soundproofing prior to works above slab level to ensure that it is properly dealt with during construction.

28. To protect the character and appearance of the area a condition is necessary to require the details of the external materials and have these approved by the Council (7). For the same reason, and also to enhance the biodiversity of the area, a condition is necessary to require the preparation of a soft and hard landscaping scheme and details of biodiversity improvement measures. Given the aims of these conditions are interrelated I have combined them into a single condition (17).
29. In the interests of safety and to improve flood resilience a condition is required to ensure the preparation of a surface water management strategy (5). In the interests of mitigating and adapting to climate change, it is also necessary to impose conditions requiring details of surface water drainage works (6), renewable energy/low carbon technologies (15), water efficiency measures and rainwater harvesting (16). There is no mechanism to require the adoption of the surface water drainage works by a public authority or statutory undertaker, therefore I have removed the requirement to provide details regarding this.
30. To encourage active and sustainable travel, a condition is necessary to require the provision of cycle parking facilities (11) and fast charge sockets for electric vehicles (12). In the interests of highway safety conditions are also required to construct the new vehicular access, including visibility zones (9), and vehicle parking spaces (10) prior to occupation. There are no plans before me showing the required visibility zones. I have therefore amended the condition so that these details are submitted to and approved by the local planning authority. I have not imposed a condition requiring the existing access to be closed as it would not be possible to use the existing access once the site has been developed. I have also not required the reinstatement of the kerbs and footways as this is not necessary to make the proposal acceptable.
31. Also, in the interests of highway safety, a condition is necessary to ensure the preparation of a Construction Transport Management Plan (3). This condition must be pre-commencement so that it covers the whole development process, including demolition and site clearance. I have removed the requirement for condition surveys of the highway and a commitment to fund the repair of any damaged caused, as other vehicles would be using the highway during the construction period and therefore any damage during this time would not necessarily be caused by the vehicles associated with the construction of the development. I have also removed the need to provide details regarding the on-site turning for construction vehicles as, given the size of the site, it is unlikely that on-site turning would be possible. This condition has been agreed by the appellant.
32. To safeguard the public, the environment, and surface and ground water, a condition is necessary to require a watching brief of the site during construction to identify any contamination and, where identified, effectively remediate it (4). The Council's suggested condition refers to a former petrol fuelling station having been located nearby. However, having regard to the existing use, the surrounding context, and the absence of any information demonstrating that contamination is likely, imposing a condition in this case would be a proportionate approach, noting the approach set out in the Planning Practice Guidance.

Conclusion

33. For the reasons above, I find that the proposal would be in accordance with the development plan, read as a whole. It has not been demonstrated that there are any material considerations of sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. The appeal is therefore allowed subject to the conditions below.

Hannah Guest

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: Location Plan; DP/613/P-03 Rev P3; DP/613/P-04 Rev P2; DP/613/P-02 Rev P2; DP/613/P-01 Rev P2.
- 3) No development shall take place, including demolition and site clearance works, until a Construction Transport Management Plan has been submitted to, and approved in writing by, the local planning authority. The Statement shall include details of:
 - the parking of vehicles for site personnel, operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials;
 - a programme of works, including measures for traffic management;
 - the erection and maintenance of any security hoarding;
 - measures to prevent the deposit of materials onto the highway;
 - measures to control the emission of dust and dirt during construction;

The approved Construction Transport Management Plan shall be adhered to throughout the construction period for the development.

- 4) A watching brief of the site should be kept throughout the construction period for the development, including during demolition and site clearance, for any evidence of visual or olfactory contamination. Any contamination found shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to, and approved in writing by, the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 5) Prior to the commencement of construction of the building hereby permitted, a surface water management strategy to assess the risk from all sources of flooding to the development and mitigation measures proposed 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 and retained thereafter.
- 6) Prior to the commencement of construction of the building hereby permitted, details of surface water drainage works shall be submitted to, and approved in writing by, the local planning authority. Before these details are submitted an assessment of the potential for disposing of surface water by means of sustainable drainage shall be carried out and the results of the assessment provided to the local planning authority.

Where a sustainable drainage system is to be provided the submitted details shall include:

- Information about the design storm period and intensity, the method employed to delay and control surface water discharge from the site and the measures taken to prevent pollution of the receiving groundwater and /or surface waters;
- A timetable for its implementation;
- A management and maintenance plan for the lifetime of the development which shall include arrangements to secure the operation of the scheme throughout its lifetime.

Prior to the occupation of the buildings hereby permitted the surface water drainage works shall be carried out and the sustainable urban drainage system shall be managed and maintained therefore in accordance with the approved maintenance and management plan.

- 7) Prior to the commencement of works above slab level, details of the materials to be used in the construction of the external surfaces of the building including details of the screening around the balcony 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 and retained thereafter.
- 8) Prior to the commencement of works above slab level, a soundproofing scheme shall have been incorporated in the building in accordance with details, previously submitted to, and approved in writing by, the local planning authority. Once incorporated the scheme shall be retained thereafter.
- 9) Prior to first occupation of the building hereby permitted the proposed vehicular access to The Broadway including the required visibility zones shall have been constructed in accordance with details previously submitted to, and approved in writing by, the local planning authority. Once constructed the visibility zones shall be kept permanently clear of any obstruction over 600mm high.
- 10) Prior to first occupation of the building hereby permitted the proposed vehicle parking spaces shall have been constructed in accordance with the approved plans and thereafter retained, available at all times for the parking of vehicles.
- 11) Prior to first occupation of the building hereby permitted, space for at least 2 cycles shall have been constructed in accordance with details previously submitted to, and approved in writing by, the local planning authority. Once constructed the cycle spaces shall thereafter be maintained and retained, available at all times for the parking of cycles.
- 12) Prior to first occupation of the building hereby permitted, fast charge sockets (current minimum requirements – 7kw Mode 3 with Type 2 connector – 230v AC 32 Amp single phase dedicated supply) shall have been provided for both the residential and commercial unit and thereafter maintained and retained.
- 13) Prior to first occupation of the building hereby permitted the proposed bins and storage unit shall have been provided in accordance with the approved plans and shall thereafter be retained.

- 14) Prior to first use of the ground floor commercial unit for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises (Use Class E(b)), an extraction and filtration system shall have been installed in accordance with details, previously submitted to, and approved in writing by, the local planning authority. The details shall include maintenance and a cleaning and filter replacement schedule. Once installed the system shall be retained thereafter and maintained in accordance with the approved details.
- 15) Prior to first occupation of the building hereby permitted, the proposed photovoltaic cells and any other renewable energy/low carbon technology shall have been installed in accordance with details, previously submitted to, and approved in writing by, the local planning authority. The details shall include calculations demonstrating that 10% of the predicted energy consumption would be met through the renewable/low carbon technology chosen. Once installed the photovoltaic cells and any other renewable energy/low carbon technology shall be retained thereafter.
- 16) Prior to first occupation of the building hereby permitted, water efficiency measures and rainwater harvesting shall have been implemented in accordance with details previously submitted to, and approved in writing by, the local planning authority. Once implemented these measures shall be retained thereafter.
- 17) Prior to first occupation of the building hereby permitted, a hard and soft landscaping scheme including measures to improve and enhance biodiversity at the site shall have been implemented in accordance with details previously submitted to, and approved 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, any existing plants 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. Once implemented the scheme shall thereafter be maintained for a period of 5 years from the date of planting. If, within a period of 5 years from the date of planting, any tree or plant (or any tree or plant planted in replacement of them) is removed, uprooted, destroyed or dies or becomes seriously damaged or defective, another tree or plant of a similar size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree or plant.
- 18) Prior to the installation of an air or ground source heat pump on the site, details of the heat pump, including acoustic data to demonstrate that there will be no increase in the background noise level and that there will be no tonal noise emitted from the unit, the location of the unit(s) and the distance to the closest dwelling, shall have been submitted to, and approved in writing by, the local planning authority.