



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: 04 April 2023

Appeal Ref: APP/Q3630/W/22/3298860

78 Kings Road, New Haw KT15 3BQ

- 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 K Parmar against the decision of Runnymede Borough Council.
 - The application Ref RU.21/1398, dated 20 October 2021, was refused by notice dated 11 January 2022.
 - The development proposed is erection of single storey front, side and rear extension, and conversion of house to House of Multiple Occupation (HMO).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. It has been put to me by the appellant that the host dwelling could be converted to a 6-bed HMO for a maximum of 6 tenants without the need to seek prior approval. However, there is no substantive evidence before me that the proposed extension and conversion is permitted development. The description of the development applied for includes the conversion of the house to an HMO, therefore I have determined the appeal on this basis.

Main Issues

3. The main issues are:
 - Whether the site is an appropriate location for the proposal with particular regard to local and national policy on flood risk; and
 - The effect of the proposal on the living conditions of the occupants of Nos 76 and 80 Kings Road, with particular regard to outlook, daylight and sunlight, and noise and disturbance.

Reasons

Flooding

4. Paragraph 167 of the National Planning Policy Framework (the Framework) states that when determining any planning applications, local planning authorities should ensure flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood risk assessment. Development should only be allowed in areas at risk of flooding where, in light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that the development meets a number of

- criteria. These include ensuring that the development is appropriately flood resistant and resilient, incorporates sustainable urban drainage, safely manages any residual risk, and provides safe access and escape routes.
5. Paragraph 163 of the Framework explains that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. This approach should be used in areas known to be at risk now or in the future from any form of flooding. If it is not possible for development to be located in areas with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. Policy EE13 of the Runnymede 2030 Local Plan (2020) is consistent with this approach. Paragraph 162 of the Framework is clear that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
 6. The appeal site is located within Flood Zone 2, which means it has a medium probability of flooding and the proposed use as an HMO is classified in the government's Planning Practice Guidance as a more vulnerable use. Paragraph 168 of the Framework states that applications for some minor development and changes of use should not be subject to the sequential or exceptions tests. The definition of minor development is set out at footnote 56 and includes householder development, small non-residential extensions and most changes of use.
 7. The proposal involves an extension to the appeal property as well as a change of use to an HMO and, while the change of use may not be subject to the sequential test, the proposed extension would be, as it does not meet the definition of householder development set out in the Planning Practice Guidance¹. This is because the proposed extension would provide additional bedrooms, which are a primary use of the dwelling rather than incidental to its enjoyment. Therefore, in this case, a sequential test should be undertaken to demonstrate that it is not possible to locate the development within Flood Zone 1, a lower-risk area.
 8. The proposal is supported by a Site-Specific Flood-Risk Assessment (04/08/2021), which found there were no records of any flood incidents at or in the vicinity of the site and that the area has not had a significant number of sewage flooding incidents either. Although the development would increase the impermeable area of the site, this could be mitigated by sustainable urban drainage, which could be secured by condition were the appeal to be allowed along with other flood prevention measures. There would also be safe and easily accessible egress routes to Flood Zone 1. However, as the sequential test has not been passed, I do not need to consider the acceptability of the proposal with regard to the exception test.
 9. In the absence of evidence to demonstrate that no other sites available for the development exist with a lower flood risk than the appeal site, the proposal would be contrary to Policy EE13 of the Local Plan and the aims of the Framework, which seek to steer new development away from areas at the highest risk of flooding. It would also conflict with the advice in the PPG that supports these aims.

¹ Paragraph: 051 Reference ID: 7-051-20220825

Living Conditions

10. The proposed extension would not be significantly taller than the existing boundary treatment and only the top part of the extension and the flat roof would be visible from the neighbouring properties. It may be more visible from the end of the rear garden of No.76, given the boundary treatment is lower and more open in this location. Nonetheless, it would be set back from the boundary with this property and therefore would not be dominant or overbearing.
11. The proposed extension would be deeper than the 3 metres provided as a guide in the Council's Design SPD (July 2021). However, even if it would extend past the 60-degree splay line of the nearest windows of both neighbouring properties, given it would be a comparable height to the existing boundary treatment, its effect would be similar. In the event that the existing treatment was removed, while I recognise that the blank elevation of the proposed extension would be different in appearance to the existing wall and planting, it would be of a similar scale and would therefore have a comparable effect on the outlook from the adjacent properties and their gardens.
12. The rear gardens of the neighbouring properties contain greenery with mature trees, therefore, although there would be quite a stark change in the boundary's appearance, this change would be on the periphery of the views taken down the gardens from the rear windows. Given the existing boundary treatments and that the proposed extension is single storey, any change in outlook from the side windows of No. 78 would be very limited. For these reasons the proposal would not unacceptably harm the living conditions of the neighbouring occupants with regards to outlook.
13. In terms of overshadowing, the proposed extension would be located to the north of No. 80 and therefore any overshadowing would likely be very limited. Although, there is the potential for the proposed extension to overshadow No. 76, given it would be located to the south of this property, the low single storey profile of the proposed extension would have a similar effect as the existing boundary treatments. Any overshadowing in addition to this would be very limited and would not unacceptably harm the living conditions of the neighbouring occupants.
14. Notwithstanding the number of individuals that could occupy the HMO, which could be imposed by condition, if necessary, the rooms in HMOs are typically occupied independently, therefore the use of the property as an HMO would be different to its current use as a family house. Unrelated adults are more likely to have individual daily schedules, deliveries and visitors and are less likely to undertake activities together than a family. Given this, there would be increased comings and goings.
15. From the evidence before me and my observations on site, this end of Kings Road appears to consist predominately of houses occupied by families. It is relatively far from the frequent traffic movements and vibrancy associated with the facilities and services on Woodham Lane and The Broadway, and as a result is quiet and relatively tranquil. Taking this into account, any addition to the movement patterns and noise levels would likely result in a small increase in noise and disturbance. Nevertheless, the proposal would be in a built-up residential area where some noise and disturbance from activities taking place within rear gardens would not be uncommon. Given this, and the modest

number of intended occupants, the increase would not be to such a degree that it would result in harm to the living conditions of neighbours.

16. For the reasons above, the proposal would not harm the living conditions of the occupants of Nos 76 and 80 Kings Road with regards to outlook, sunlight, daylight, or noise and disturbance. The proposal would therefore accord with Policy EE1 of the Runnymede 2030 Local Plan (2020) (Local Plan), which seeks high quality and inclusive design by, amongst other things, ensuring development proposals have no adverse impact on the amenities of occupiers of neighbouring property. It would also accord with the aim of the Framework to create places with a high standard of amenity for existing and future users.

Other Matters

17. The appeal site lies within 5km of the Thames Basin Heaths Special Protection Area (TBHSPA), which is designated for internationally important birds, providing habitat for woodlark, nightjar, and Dartford warbler. The TBHSPA Supplementary Planning Document (April 2021) 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.
18. Nevertheless, given I am dismissing the appeal due to its location being contrary to local and national flood risk policy, no pathways to significant likely effects on the TBHSPA would arise from my decision. I, therefore, do not need to consider this issue further.

Planning Balance and Conclusion

19. Overall, I have found that the proposal would not unacceptably harm the living conditions of the occupants of Nos 76 and 80 Kings Road with regards to outlook, daylight, sunlight, or noise and disturbance. However, it would be contrary to local and national policy on flood risk and would therefore conflict with the development plan read as a whole.
20. Having had regard to all relevant material considerations, it has not been demonstrated that there are any of sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. The appeal is therefore dismissed.

Hannah Guest

INSPECTOR