



Appeal Decision

Site visit made on 27 June 2023

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2023

Appeal Ref: APP/Z3635/W/23/3315903

31 Vicarage Road, Sunbury on Thames, Surrey TW16 7QF

- 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 Sumir Ahluwalia against the decision of Spelthorne Borough Council.
 - The application Ref 22/01520/FUL, dated 1 November 2022, was refused by notice dated 19 January 2023.
 - The development proposed is new build to rear of 31-33 Vicarage Road.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council have referred to the Spelthorne Draft Local Plan which, since the Council made its decision has been submitted to the Planning Inspectorate for Examination. However, the Council have advised that, on 6 June 2023, it resolved to formally request that the Planning Inspectorate pause the Examination Hearings for a period of three months. As such I cannot be certain when the plan is likely to be adopted, if any policies are to be modified, or if there are any unresolved objections. I have therefore not given any weight to the emerging policy document and have determined the appeal in accordance with the current development plan.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the area;
 - Whether the proposed development would provide acceptable living conditions for the future occupants of the property, with particular regard to privacy and outlook; and
 - The effect of the proposed development on the living conditions of the occupiers of 33 Vicarage Road, with particular regard to external space.

Reasons

Character and appearance

4. The appeal site forms part of the "L" shaped rear gardens of the donor properties, 31 and 33 Vicarage Road (Nos 31 and 33). The donor properties are

a pair of semi-detached houses with long, narrow, rear gardens which connect to Kings Avenue.

5. The character of the immediate area is mixed with varied dwelling sizes, types, and designs and in varied plot sizes. However, the properties in the immediate area have plot widths that enable the whole of the front of the dwelling to be viewed from the road. They are also set back from the road behind space for parking and front gardens with low front walls and small areas of landscaping. Other single storey dwellings in the area have wide frontages. All of these factors, taken together, result in the area having a spacious and pleasant appearance which contributes positively to the character of the area.
6. The appeal proposal would have a narrow frontage onto Kings Avenue, widening out behind the garden of 35 Vicarage Road (No 35). The dwelling would be sited a similar distance back from the road as 33 Kings Avenue and therefore follows the building line. However, only part of the frontage of the dwelling would be visible. A sizeable proportion of the plot and dwelling would be behind the garden of No 35.
7. At the side, the plot width would be like others in the area with areas of patio, lawn, and planting. However, I have not been made aware of any plots in the area which have similar narrow frontage. The visual appearance from Kings Avenue would be of a narrow plot and building which would be enclosed by the existing close boarded fence boundary along the side of the garden of No 35. The proposal would, therefore, appear cramped and contrived.
8. The submitted plans show one parking space off the road and includes landscaping to the front and, in this respect, is similar to other properties in the area. However, the narrow width and that the scheme wraps around the fence of the neighbouring property would not replicate the more spacious and open frontages, or maintain the sense of spaciousness, of the other properties on Kings Avenue. The scheme would, therefore, fail to make a positive contribution to the street scene.
9. The proposal would make use of a small parcel of land, at higher density as supported by the National Planning Policy Framework (the Framework) and local policies. Furthermore, the external appearance of the proposal is not, in itself, objectionable. However, for the reasons that I have outlined above, the scheme would result in a form of development that would not be in keeping with the surrounding built form and character.
10. Although the site is currently underutilised and the part of the plot associated within the garden of No 31 is overgrown with weeds, the lack of maintenance of the site does not justify the appeal proposal. The area associated with No 33 is used for sheds, a garage and other storage and appeared to be in active use. That the host dwellings are not statutorily listed, within a conservation area or area of special local character also does not weigh in favour of the proposal and does not justify the harm to the character and appearance of the area I have identified above.
11. For the reasons given I find that the proposal would have a harmful effect on the character and appearance of the area. It is, therefore, contrary to Policy EN1 of the Spelthorne Borough Council Core Strategy and Policies Development Plan Document, 2009 (CSP) which, amongst other matters, seeks high standards of design which respect and make a positive contribution to the

street scene and the character of the area, paying regard to scale, height, proportions, layout and other characteristics.

12. For the same reasons the proposal does not comply with the guidance set out in the Spelthorne Borough Council Design of Residential Extensions and New Residential Development Supplementary Planning Document, 2011 (SPD), which, amongst other matters seeks to ensure that development is of a high standard, is in keeping with, and makes a positive contribution to, the character of an area, including the space between buildings, respects plots sizes, layouts and separation distances, relates to building sizes and forms in the area and seeks to resist development that is inappropriately cramped.
13. The proposal also does not meet the requirements of paragraphs 126 and 130 of the Framework which seeks to ensure that development achieves high quality, well-designed, places that are visually attractive and maintain a strong sense of place.

Living conditions of future occupiers

14. The window serving the single bedroom would face towards the first-floor windows of the two-storey houses on The Rowans, Nos 12 and 13. The patio doors to the double bedroom, the kitchen window and the patio doors to the lounge would all face towards the two-storey houses on Vicarage Road, Nos 31, 33 and 35.
15. The appellant asserts that the 'back to flank' distance should be used due to the window position and garden space. However, paragraph 3.14 of the SPD clearly sets out that where a flank wall is proposed to have habitable room windows, such as the case with the appeal proposal, the 21m back-to-back separation distances apply. The proposal does not meet the back-to-back distance and there is no justification for applying the back-to-flank separation distance. The separation distance between the proposed dwelling and The Rowans would not be sufficient to prevent loss of privacy to the future occupants of the proposed dwelling.
16. Moreover, due to the loss of privacy being from the existing first floor windows looking down towards the proposed single-storey dwelling, the existing boundary treatments would not reduce the extent of overlooking from the properties on The Rowans.
17. The occupiers of the first-floor windows of the houses on both The Rowans and Vicarage Avenue would also overlook a substantial part of the garden area of the proposal. I acknowledge that there is often overlooking of gardens in built-up residential areas, however the shape and position of the proposed garden would result in the occupants of the appeal proposal having a very restricted private garden area. There would be limited area within the garden that would not be overlooked by neighbouring properties. This overlooking would be harmful to the living conditions of the future occupants of the dwelling.
18. The suggestion within the appellant's evidence that foliage topped at 2.5m would reduce the effect on the loss of privacy for the future occupants of the proposal. However, I have no means to ensure that the foliage would be allowed to grow to such a height nor any evidence that there would be sufficient space within the garden for foliage that could achieve 2.5m in height.

Moreover, foliage of such a height would also enclose the garden to the detriment of the living conditions of the future occupants of the dwelling.

19. The windows in the proposed dwelling would also be close to the boundaries of the site and the proposed new outbuildings within the gardens of Nos 31 and 33. The outlook from the property, albeit over the garden of the new dwelling, would be enclosed and dominated by the boundaries, even if they were landscaped, and the new outbuildings. This would, therefore, result in poor living conditions for the future occupants of the proposal.
20. The outlook from the single bedroom would also be very restricted due to the short distance from the boundary fence. Although the rooflights would provide additional sunlight and daylight into the property they would only provide outlook up to the sky which would not mitigate the harm on the outlook which results from the proximity of the boundaries.
21. For the above reasons I find that the proposed development would result in unacceptable living conditions for the future occupants of the appeal proposal, with particular regard to privacy and outlook. The proposal would, therefore, not comply with Policy EN1 of the CSP which, amongst other matters, aims to achieve a satisfactory relationship between properties.
22. It would also not comply with the guidance in the SPD which aims to ensure satisfactory living conditions and ensure that new development provides an attractive environment.
23. For the same reasons, the proposal would also be contrary to the National Planning Policy Framework, specifically paragraph 130 which, amongst other matters, aims to create places with a high standard of living conditions for future occupiers.

Living conditions of neighbouring occupiers

24. Although part of the site associated with No 33 is used for storage and contains outbuildings these appeared to be, at the time of my visit, in use in association with the dwelling. The proposal would result in the loss of this storage space, albeit replaced with the proposed outbuildings.
25. Furthermore, the extent of the appeal site goes beyond the area currently shown as containing outbuildings on the submitted plans. No 33 has also been extended with a single storey extension and conservatory which has resulted in the reduction of the usable garden area associated with this dwelling. The garden to No 33, should the current appeal be allowed, would be reduced to below the minimum garden areas required by the SPD for a 3-bedroom, semi-detached, dwelling.
26. The appellant contends that No 33 should be considered as a 2-bedroom dwelling due to the size of the third bedroom. However, there is nothing within the SPD that sets whether a room is a bedroom or not based on its size. The property currently provides 3-bedrooms, albeit one is small. The SPD therefore requires that the existing dwelling should be retained with a garden area sufficient for a 3-bedroom house.
27. The shortfall in garden area would only be marginally below the requirement for a 3-bedroom dwelling. However, it would be a shortfall and the SPD sets minimums to ensure that dwellings are provided with sufficient garden space to

provide appropriate living conditions for the occupants of the associated dwelling. The shortfall would be created by the proposal to build a new dwelling on part of the garden, and it would, therefore, be an adverse effect of the proposal. That there may be other gardens in the area that are not dissimilar in size is not reason to justify further harm. Moreover, I have not been given any substantive evidence of any similar sized gardens for similar sized properties.

28. For the above reasons, the proposal would not provide acceptable living conditions for the occupiers of No 33, with particular regard to external space, and would, therefore, not comply with Policy EN1 of the CSP which, amongst other matters, aims to achieve a satisfactory relationship between properties.
29. The proposal would also be contrary to the Framework, specifically paragraph 130 which, amongst other matters, aims to create places with a high standard of living conditions for existing occupiers.

Other Matters

30. The Council states that it is not able to demonstrate a five-year supply of deliverable housing sites. Paragraph 11(d) of the Framework therefore applies. In this case, from the evidence before me, there are no specific policies in the Framework relevant to footnote 7 which indicate that development should be restricted.
31. The proposal would accord with paragraph 60 of the Framework which seeks to significantly boost the supply of housing. I also acknowledge there would be general social and economic benefits of providing one 2-bedroom dwelling, as supported by the Framework. Moreover, the proposal would be development on a small site, creating higher density development in an area which, based on the appellant's evidence, has good transport links. However, in providing one additional property these benefits are limited. Nevertheless, these benefits contribute positively and carry moderate weight in favour of the proposal.
32. There would be adverse environmental impacts in terms of the effect on the character and appearance of the area from the narrow width of the plot, and the cramped and contrived layout, and harmful environmental effects on the living conditions of both the future occupants of the scheme and the occupants of the neighbouring property, 33 Vicarage Road. The development would, therefore, be contrary to paragraphs 124, 126 and 130 of the Framework, which amongst other matters seek to secure well-designed and attractive places, promote good design, maintain a strong sense of place, and create places with a high standard of living conditions for existing and future users. These environmental impacts are afforded significant weight.
33. The adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
34. The appellant contends that the scheme has evolved since the previous refusals. However, having considered the information provided in the Design and Access Statement, alongside the other evidence submitted with the appeal, although there have been significant changes in the scheme since the 2008 and 2009 applications, there has not been substantial evolution since the 2022 application. The appeal before me has changed the position of the window for

the single bedroom, added two rooflights and suggested increasing the height of the boundary foliage. I have considered these changes in the main issues above and the changes have not overcome the harm which will result from the proposal. Furthermore, each scheme must, in any case, be considered on its own merits.

Conclusion

35. For the reasons given above, the proposal would be contrary to the development plan, when taken as a whole, and the Framework. There are no other material considerations that would indicate that the proposal should be determined other than in accordance with the development plan. Therefore, the appeal is dismissed.

K Townend

INSPECTOR