



Appeal Decision

Site visit made on 23 May 2024

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4TH June 2024

Appeal Ref: APP/Z3635/W/23/3322831

Vivienne House, Budebury Road, Staines-upon-Thames TW18 2BB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Turner of Eden Roman Holdings against the decision of Spelthorne Borough Council.
 - The application Ref is 23/00128/FUL.
 - The development proposed is erection of an extension to the existing building, including an additional third and part fourth floor to provide eight additional flats together with additional car parking, cycle storage, refuse and recycling and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken from the Council's decision notice as this more accurately describes the proposed development.
3. The Council refer to policies of the Pre-Submission Spelthorne Local Plan 2022-2037 (the PSLP) although it does not rely on those policies in its reason for refusal. The Council accept those policies carry limited weight and there is little evidence as to how far away those policies are from adoption or what form they may take post-examination. These are considered in turn below.

Main Issues

4. The main issues are: (i) the effects of the proposal on the character and appearance of the host building and the surrounding area, and; (ii) the effects of the proposal on the living conditions of nearby residents, in particular those occupants of the existing most southern units of Vivienne House and the occupants of No.33 Budebury Road.

Reasons

Character and Appearance

5. The area is predominantly residential in character and comprises a dense pattern of development of various house types including historic terraces, detached houses and bungalows. Building heights are predominately two storeys, sometimes with rooms within the roofslopes. However the area is also interspersed by occasional blocks of post war development which generally rise to a higher level. Vivienne House is set back from the road and enclosed to its southern and eastern sides by mature trees. It has a simple and largely

symmetrical form and elevations, set below an extensive flat roof and is set among landscaped grounds and car parking.

6. The height of the proposed side extension would rise significantly above the prevailing building height of the surrounding area and, together with its projection forward of the front building line, it would appear as an incongruous and visually prominent addition to the area. For the same reasons it would dominate and detract from the simple form of the existing building. While the visual effects would likely be limited to localised views around the junctions of Budebury Road and Wyatt Road, the effects would nonetheless be significant.
7. For these reasons the proposal would cause harm to the character and appearance of the host building and to the surrounding area. It would conflict with Policy EN1 of the CS¹ which requires among other things, that developments respect and make a positive contribution to the street scene and the character of the area. In turn the proposal would also conflict with Policy HO5 of the CS which accepts higher densities than those stated where the development complies with Policy EN1, including in terms of its compatibility with the character of the area. There would also be conflict with the National Planning Policy Framework (the Framework) insofar as it requires development to be sympathetic to local character and history including the surrounding built environment.
8. The proposal would conflict with Policy PS2 of the PSLP which similarly requires a positive contribution to the character of the area. However, as above, given the status of this Policy the conflict attracts limited weight.

Living Conditions- Vivienne House

9. The proposed side extension would project beyond the existing front building line and would extend forward of, and in close proximity to, the front windows of the most southern units within Vivienne House. The Council's Design of Residential Extensions and New Residential Development Supplementary Planning Document 2011 (the SPD) refers to a 45 degree horizontal and vertical guide, whereby a 45 degree line should be taken from the centre of an existing window, both horizontally and vertically, to help establish if there would be a harmful loss of daylight to those windows.
10. In the case of those existing front windows nearest the proposed side extension, a 45 degree line would be breached both horizontally and vertically, albeit to a small degree horizontally. As such, harmful effects on the daylight received by those windows cannot be ruled out. The extension would also be located to the south of those windows, and has the potential to reduce sunlight. In addition, the introduction of a solid and substantial flank wall immediately to the south of those windows would appear dominant in their outlook, contributing to the creation of oppressive conditions within those rooms.
11. Based on the evidence provided, those affected windows serve living/ dining rooms and so are important internal spaces which would make a significant contribution to the overall living conditions of occupants of those properties. Taken together, the above effects could amount to significant harm to the living conditions of those occupants. The appellant's Sunlight and Daylight

¹ Spelthorne Borough Council Core Strategy and Policies Development Plan Document, adopted 2009

Impact Report considers the effects on nearby properties on Budebury Road, but does not provide assurances of the effects on those units within Vivienne House itself.

12. In the absence of substantive evidence to the contrary, the proposal would have a harmful effect on the living conditions of those units due to the deterioration of outlook and natural lighting received by those windows. This would conflict with Policy EN1 of the CS insofar as it requires development to achieve a satisfactory relationship to adjoining properties, and the objectives of the Framework insofar as it requires that developments create a high standard of amenity for existing and future users. There is also conflict with Policy PS2 of the PSLP insofar as it relates to impact on neighbours, but as above this conflict attracts limited weight.

Living Conditions- No.33 Budebury Road

13. No.33 Budebury Road is immediately north of the appeal site with a building line much further forward. As a consequence the proposal would be visible from the rear facing windows of that property, which include habitable rooms. While there would be some effect on the outlook from that property, given the distance of separation between no.33 and Vivienne House, the effects on the living conditions of the occupants of no.33 as a whole would not be significant or harmful.

Other Matters

14. Planning permission has been granted in the past for a two storey extension above Vivienne House². However, based on the evidence, that planning permission was granted only for two years and there is no other evidence to support that the permission was implemented or remains extant. While the policies of the development plan appear to remain largely the same, there is little evidence from the main parties as to whether planning permission would be granted for that scheme again. As such it cannot be established that this would necessarily occur nor can it be concluded that there is a real prospect of the fall back scheme being implemented. As such the fall back position is given very little weight.
15. The Council accept that it is unable to demonstrate a five year land supply for housing, and acknowledge that it has only a 3.52 year supply. As such, the provisions of paragraph 11d) of the Framework apply to the appeal. The application of policies in the Framework that protect areas or assets of particular importance do not provide a clear reason for refusing the development. It is therefore necessary to consider whether the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
16. For the reasons set out, the proposal would cause harm to the character and appearance of the area and the host building, and would cause harm to the living conditions of some existing occupants of Vivienne House. The effects of these harms would be significant and long lasting, and would result in conflict with the Framework. As such they attract very substantial weight.

² 21/01507/FUL- granted 13 December 2021

17. The proposal would provide eight new residential units of varying size which would contribute towards the national objective to boost the supply of homes and also to the local housing shortfall. The Framework also acknowledges sites of this size to be ones which can make an important contribution to the housing requirement of an area, and which can often be built out relatively quickly. These new homes would be on an existing developed site and in an established residential area with good accessibility to services and facilities including public transport. In addition, the development would deliver economic benefits through the construction process and the economic contributions of future occupiers. Together these benefits attract moderate weight, given the scale of the proposal.
18. Consequently, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal does not therefore benefit from the presumption in favour of sustainable development set out in the Framework.

Conclusion

19. The proposal would conflict with the development plan as a whole and there are no material considerations, including the approach of the Framework, that are worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal is therefore dismissed.

C Shearing

INSPECTOR