

Appeal Decision

Site visit made on 16 July 2024

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2024

Appeal Ref: APP/Q3630/W/23/3329858

The Foresters Arms, 1 North Street, Egham, Surrey, TW20 9RP

- 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 M Angliss of North Street Properties Ltd against the decision of Runnymede Borough Council.
 - The application Ref is RU.22/1769.
 - The development proposed is described as alterations and extensions to The Foresters Arms pub to provide 2 x flats, relocation of existing managers flat along with provision of cycle storage, parking and installation of PV panels (amended description 12/01/2023 and amended plans received 17/03/23).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development cited in the appeal form and decision notice differs to that contained within the planning application form. From the information before me the parties formally agreed to the change in the description. In the interests of clarity, I rely upon the amended and agreed description for the purposes of the heading above.
3. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published.
4. In any event, the policies that are material to this decision are not subject to any fundamental changes, and I am satisfied that this has not prejudiced any party. Consequently, in reaching my decision I have therefore had regard to the Framework as published in December 2023, and any reference to paragraph numbers are to this version.

Main Issues

5. The main issues in this appeal are:

- Whether the proposal would provide adequate living conditions for future occupiers with specific regard to noise and disturbance, external amenity space, outlook, waste provision and internal space standards; and
- Whether the proposal would provide adequate living conditions for existing residents at 2 North Street and 31 Rusham Road with specific regard to overlooking and privacy.

Reasons

Living conditions – future occupiers

Noise and disturbance

6. The proposal seeks to retain the existing use of The Foresters Arms as a local community public house, with a modest first floor side extension to relocate the existing managers flat. It also provides for the conversion of the underutilised wing at the rear of the public house, into 2 x 1-bedroom 1-person dwellings (units 1 and 2). It is acknowledged that any potential occupiers residing in such a location, would do so with an expectation of lively/loud activities. Be that as it may, given the new residential use would be attached to an existing public house, this would create a sensitive relationship between the users.
7. Paragraph 191 of the Framework is clear, that proposals should amongst other aspects, avoid noise giving rise to significant adverse impacts on health and quality of life. Paragraph 193 also makes it clear that decisions should integrate effectively with existing businesses, and where the operation of an existing business could have a significant adverse effect on new development, the applicant (or 'agent of change') should provide suitable mitigation before the development is completed.
8. The Planning Practice Guidance (PPG) sets out further detailed guidance¹, including the 'agent of change' principle. This includes taking into account current activities, but also those activities that businesses or other facilities are permitted to carry out, even if they are not occurring at the time of the application being made. The 'agent of change' will also need to define clearly the mitigation being proposed to address any potential significant adverse effects that are identified. Adopting this approach may not prevent all complaints from the potential new residents/users about noise or other effects, but can help to achieve a satisfactory living or working environment, and help to mitigate the risk of a noise nuisance being found.
9. There is little substantive information before me in respect of background noise levels currently existing at the site. There are also no details regarding whether any noise level tests were conducted inside the building to safeguard against any potential noise break-in from the public house, nor whether there are any proposed measures that could potentially suppress noise and disturbance. Without these details, or evidence to the contrary, it is unclear whether the provision of the residential units could lead to potential conflict between parties, and noise complaints which may necessitate enforcement action. Any noise nuisance reported could thus lead

¹ Paragraph: 009 Reference ID: 30-009-20190722

to pressure for restrictions to be placed on the users/patrons of The Foresters Arms, such that unreasonable burdens might be placed on these users' contrary to the guidance of the PPG.

10. The appellant highlights that conditions could be attached requiring measures to be incorporated to reduce or mitigate impacts from noise. However, I have little evidence before me to clarify what the existing noise levels are, nor whether any potential sound insulation measures would be adequate, as there are no quantifiable calculations on how the internal noise level criteria would be achieved. As such, given that there is uncertainty that sound attenuation measures would be sufficient to control any noise nuisance, I am not persuaded that this can be controlled by a condition, and I must adopt a precautionary approach.

External amenity space

11. I have been presented with no evidence that there is a minimum space requirement for the provision of outside amenity space in either the Government's nationally described space standards, March 2015 (NDSS) or the Runnymede 2030 Local Plan (RLP), adopted July 2020.
12. However, guidance in the Runnymede Design Supplementary Planning Document (SPD), adopted July 2021 indicates that residential development should have access to usable outdoor space, be it private or communal. In addition, the Framework, amongst other things, expects planning decisions to ensure healthy living conditions and create better places to live, indicating that higher densities should not be at the expense of acceptable living standards.
13. The appellant contends that as the proposal consists of the conversion of an existing unit, adequate amenity space is provided through the balcony for unit 1 at the upper floor level, and the ground floor amenity spaces for both units 1 and 2. The constraints of the site are noted, and given the proposal is for 2 x 1-bedroom dwellings, it is unlikely to be used for family accommodation. However, whilst a one bedroom dwelling may be occupied by a single person or childless or older couples, who may not wish to have a large garden, the proposal is still required to provide a good standard of accommodation for all potential future occupiers.
14. The external amenity spaces would amount to modest areas along the edges of the building, interspersed between the access route; public house servicing area; bicycle and waste stores; and car parking spaces. These areas of amenity are small and provide limited space for tables and chairs and other domestic paraphernalia. Consequently, given its cramped and tight positioning, located in and amongst boundary fences, parking areas and other functional facilities, it is considered that the proposed amenity space would provide poor living conditions and an unsuitable and unattractive area for potential occupants.

Outlook

15. It is clear from the drawings that units 1 and 2 are dual aspect at both ground floor and roof level, and this would provide adequate daylight into habitable rooms. However, given the close proximity of the adjoining

boundary with the neighbouring property at No 2 North Street, it is likely that the ground floor windows and the rooflights fronting this property would be required to be obscured glazed. The provision of any obscured glazing, to mitigate overlooking, would have a detrimental impact on the living conditions of any future residents of units 1 and 2, as this could lead to a poor outlook and sense of feeling hemmed in.

16. Given the above, the only meaningful outlook for future occupants would be provided via openings on the south and west elevations. From my site observations, views from any ground floor openings on these elevations would be limited to the access road, parking areas and bicycle and waste stores, given the modest separation distance between them.
17. The appellant has highlighted that views of future owners' cars may be beneficial and would accord with Design Standard 23 in the SPD with regard to reducing car crime. The appellant further highlights these views would be similar to those experienced from the approved flats² at the rear of the site. However, from the approved plans these units differ from the appeal proposal, in that they have an additional flank window providing an outlook onto a private amenity space free from cars, and as such I give this limited weight.
18. It is acknowledged in a suburban location, future occupants are more likely to expect an outlook consisting of a developed and built-up environment. However, this should not undermine the quality of life or be at the expense of acceptable living standards. In my view, the inadequate outlook from the ground floor openings would be significantly below the standard of living conditions that future occupiers could reasonably expect from main habitable rooms.

Waste storage

19. There is dispute between the parties in respect to whether there is sufficient space to accommodate the requisite waste storage, along with the required car parking spaces and other associated facilities, whilst still maintaining serviceable access at the site. The plans show the proposal would utilise an existing waste storage area that serves the public house. However, it is unclear from the submitted information whether there would be a deficiency in the waste storage capacity at the site as a result of the proposal.
20. Nevertheless, the requirement for additional bin storage, albeit limited, would lead to a further reduction in the level of available amenity space resulting in the need for additional bins to be stored close to the proposed accommodation. This would lead to a further reduction in the living conditions of future occupiers. I note the appellant's suggestion to provide details in accordance with a planning condition, but a condition would not overcome the harm identified. Therefore, I consider that the proposed development would not provide adequate provision for refuse and bin storage, leading to poor living conditions.

Internal space standards

² Runnymede District Council Planning Ref: RU.22/0992

21. The NDSS contains the minimum internal space requirements for new dwellings. These requirements are also applied in a local context within RLP Policy SL19. Under these requirements a 1-bedroom 1-person dwelling, over one floor requires 37m² gross internal area (GIA) as the minimum standard providing it incorporates a shower room.
22. The appellant describes units 1 and 2 as “duplex studios”, as they consist of 1-bedroom 1-person units over two floors. There is no required GIA in either the NDSS or the RLP for this type of unit. The Council contend that the 58m² GIA contained in the NDSS and RLP for a 1-bedroom 2-person unit over two floors would therefore be applicable in this case given the provision of the additional floor. However, from the submitted evidence, it is clear that given the constraints of the site, these units are only capable of accommodating a single bedroomed unit. Thus, the 37m² GIA for a 1-bedroom 1-person dwelling should apply, in the absence of a qualified figure for the same accommodation over two floors.
23. There is further dispute between the parties in respect to the actual GIA of the units proposed, relating to the overall floor area, any floorspace to be discounted and whether the requisite floor heights are achievable. From the evidence before me, it is unclear which of the figures are correct. Nevertheless, even if I was to use the smallest figures provided³, these would equate to 39.36m² and 39.54m² for unit 1 and 2 respectively, which both exceed the NDSS minimum standard of 37m². Consequently, as these figures are minimum standards which act as a benchmark for high design quality, the proposed internal floorspace would be appropriate in this case.
24. For the collective reasons outlined above, I conclude that the proposed development would not provide acceptable living conditions for future occupiers of the dwelling in respect of provision of outside amenity space, waste storage, outlook and noise. It would therefore conflict with policies EE1 and SL19 of the RLP; the aims and objectives of the SPD, and the Framework which together expect planning decisions to ensure healthy living conditions and create better places to live.

Living conditions – existing residents

25. The residents who would be most affected by the appeal proposal are those occupying the adjoining properties at No 2 North Street and No 31 Rusham Road along the flank elevations of the appeal site.

2 North Street

26. The extension to the flank elevation at upper floor would be in close proximity to No 2 but would retain the existing separation distance between these properties. Due to the modest increase in height, there would not be a sense of undue imposition or dominance. Furthermore, given the size of the existing building and the relatively small scale of the proposal, it would not result in a significant loss of light or overbearing impact on this property, over that currently experienced.

³ Drawing numbers 2783-RDJWL-01-ZZ-DR-A-0028 and 2783-RDJWL-01-ZZ-DR-A-0029 submitted with the Appellants final comments dated 9 April 2024.

27. The new residential use would provide windows in close proximity to private areas of No 2, and I accept that there could be a perception of overlooking from the proposed existing side windows at ground floor level and the new rooflights at upper floor. However, these openings would serve dual aspect habitable rooms, as such these could be conditioned to contain no clear glazed openings. The provision of the balcony at the rear of unit 1, could also be subject to a condition to secure an adequate screen to mitigate any overlooking or loss of privacy. Subject to conditions, the design of the proposed development would ensure that existing residents at No 2 would not experience any loss of privacy.
28. For these reasons, I conclude that the proposal would not result in harm to the living conditions of the existing occupiers at No 2 North Street.

31 Rusham Road

29. The new dwellings would face the rear garden at No 31, albeit at an acute angle. The existing boundary treatment consists of close board fencing and trees, bushes and shrubs along the boundary. I appreciate that the boundary would screen views at ground floor level, however the effectiveness would lessen at the upper floor.
30. As the openings on the northern elevation would be required to be obscure glazed, the dormer windows in the south elevation would provide the main outlook for the bedrooms, providing views of the garden area at No 31. Given their elevated position and modest separation distance between the proposal and the boundary, these windows would provide significant overlooking from a higher vantage point. Whilst a degree of mutual overlooking is to be expected in a suburban setting, the orientation and the close relationship between these properties would create a significant loss of privacy to the private garden area, harmful to the living conditions at No 31.
31. Consequently, the proposed development would have an unacceptably harmful effect upon the living conditions of the adjoining neighbour at 31 Rusham Road with specific regard to overlooking and loss of privacy. The proposal is therefore contrary to the relevant provisions of RLP Policy EE1 which among other things, requires new development to ensure no adverse impact on the amenities of neighbouring properties.

Other Matters

32. I acknowledge that the proposal would result in modest social and economic benefits, including the support future occupiers would give to local businesses and services. The proposed development would also deliver two new units on the site relatively quickly, in accordance with the aims and objectives of the Framework. Furthermore, it would promote the more efficient use of an underutilised plot of land in a relatively accessible location. To these benefits I apportion moderate weight given the limited scale and nature of the proposed development.

Planning Balance and Conclusion

33. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise.

34. Even if I were to accept the appellant's position regarding housing land supply, two dwellings would provide a limited contribution to housing supply in the area. There would be social benefits arising from the contribution to the Council's housing supply, noting the Framework highlights the contribution small and medium sized sites can make to meeting the housing requirement in the area. The development would also give rise to some economic benefits during the construction phase and provide limited support to local services.
35. Nevertheless, the identified adverse impacts of the development in respect of living conditions of any future and existing residents would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, including its presumption in favour of sustainable development.
36. For the reasons outlined above and having regard to the development plan, and all other relevant material considerations including the provisions of the Framework, the appeal is dismissed.

Robert Naylor

INSPECTOR