



Appeal Decision

Site visit made on 26 November 2024

by Mr D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd December 2024

Appeal Ref: APP/Q3630/W/24/3341460

22 Station Road, Chertsey, Surrey KT16 8BE

- 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 Apex Prime Developments Ltd against the decision of Runnymede Borough Council.
 - The application Ref is RU.23/1510.
 - The development proposed is Change of Use and single storey and first floor rear extensions to existing building to form one 2 bed apartment at ground floor and extension to first floor apartment, along with alterations to front elevation, following demolition of existing outbuildings.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's first reason for refusal refers to the character and appearance of the host building. However, the main parties' evidence and the policies I am referred to also make reference to the area. Therefore, the wording of my third main issue reflects this.

Main Issues

3. The main issues are the effect of the proposed development upon:
 - designated Habitats sites;
 - the living conditions of the occupiers of the ground floor flat at No 20 Station Road, with particular reference to daylight and outlook; and,
 - the character and appearance of the host building and the area.

Reasons

Habitats sites

4. The appeal site is within the 5km zone of influence (ZoI) of the Thames Basin Heaths Special Protection Area (the SPA). The Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations) require where a project is likely to result in a likely significant effect (LSE) upon a Habitats site (the SPA), a competent authority shall make an appropriate assessment of its implications on the integrity of that site, in view of its conservation objectives. Any LSEs from a development need to be considered alone and in combination with other development in the area, adopting the precautionary principle.

5. The SPA is a network of heathland sites which are designated because they provide suitable habitat for internationally important populations of Woodlark, Nightjar and Dartford Warbler (the qualifying features). The conservation objectives for the SPA are to maintain and restore the extent and distribution, structure, function, and processes of the habitats of the qualifying features, and the population and distribution of the qualifying features within the SPA.
6. The qualifying features nest on the ground and at low level, so are disturbed or harmed by recreational activities such as walking and dog walking. If constructed this appeal scheme would result in an increase in the number of dwellings within a short drive of the SPA compared to what exists at the appeal site. The Council's Thames Basin Heaths SPA Supplementary Planning Document (2021) (the TBHSPD) identifies any net gain of dwellings within the ZoI will give rise to LSEs upon the SPA, so will be required to contribute towards mitigation measures. If mitigation is not secured against it, this appeal development would have LSEs upon the SPA qualifying features.
7. Avoidance measures set out in the TBHSPD comprise a contribution towards a Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) which are agreed by Natural England (NE). SANGs provide alternative recreational provision to the SPA. SAMMs are a joint strategic partnership between organisations across the area, which includes measures such as wardens, education, access management and monitoring. Contributions from developments are an important component of avoidance measures to offset the harm from each new development.
8. The Council collects contributions through legal agreements and NE is content that if mitigation is provided in the form of contributions towards SANGs and SAMMs via an appropriate legal agreement then adverse effects upon the integrity of the SPA can be avoided. The appellant does not dispute the need for contributions towards the SANG and SAMM, is willing to pay contributions and has provided a Unilateral Undertaking (UU) with this appeal scheme.
9. The Council has various concerns with the UU. These being its age, that the company address and Registration No is not set out, the contributions are the incorrect amount, they are not correctly defined, the full site address is not set out, the development description is incorrect and the job titles of those who have signed are not set out. The appellant was given the opportunity to respond to these matters. While I note the willingness to provide payments if a permission is forthcoming, there is no revised UU securing mitigation against this appeal scheme before me.
10. I can see the development description in the UU 'Application' definition is incorrect, as is the date and the definition of the 'Planning Permission', which is linked to the 'Material Operation'. Despite a reference to indexing, it is not based upon the correct initial contributions, which are significantly below what the Council state is necessary to provide full and sufficient mitigation. The other matters referred to by the Council further add to my concerns. The UU does not secure the full cost of the mitigation to ensure there are no LSEs, and it is not secured against this specific appeal development.
11. Regulation 63(5) of the Regulations states that the competent authority may agree to the plan or project, only after having ascertained that it will not adversely affect the integrity of the European site. The Council is of the view a condition cannot be used to address the contributions. Such an approach

would not give me as the competent authority, full certainty a sufficient mitigation payment is secured and against this specific appeal scheme.

12. This proposal does not make adequate provision to mitigate LSEs and thus maintain or restore the SPA integrity. It makes no other provision to mitigate LSEs. Applying the precautionary principle, in the absence of adequate mitigation being secured, this scheme would have LSEs upon the SPA, so fails to adhere to its conservation objectives. Imperative reasons of overriding public interest do not exist, and it is not put to me there are no alternative solutions, or that other adequate compensatory measures will be provided.
13. Therefore, I cannot be certain the proposed development would not have LSEs upon a Habitats site, in conflict with section 63(5) of the Regulations. This conflicts with Policy EE10 of the Runnymede Local Plan (2020) (the RLP) which states that development within the ZoI must put in place adequate measures to avoid and mitigate effects upon the SPA. It conflicts with the TBH SPD insofar as this sets out measures to ensure LSEs upon the SPA are mitigated. It also conflicts with paragraph 186a) of the National Planning Policy Framework (2023) (the Framework) which states that if significant harm to biodiversity cannot be avoided, then planning permission should be refused.

Living conditions

14. From what I saw and the evidence before me, a bedroom on the ground floor at No 20 is served by a single rear facing window on the main rear façade, adjacent to its outrigger. Therefore, that bedroom is heavily dependent upon the window for its natural daylight and external outlook, which is influenced by the heights and extents of the existing boundary fence and outriggers.
15. In particular, the new first-floor extension would project approximately 4m rear of the existing main façade, at a distance approximately 1.51m from the shared boundary. A breach of a 45-degree splay might be regarded as a guide only. However, due to the new first-floor being due south of the bedroom and given the significant additional height, depth and proximity it would significantly reduce the amount of sunlight and overall daylight to the bedroom. It would also markedly reduce the level of outlook. While I note the current constraints and barriers to outlook and daylight, this appeal scheme as a whole, would result in greater effects, and based upon the evidence before me would result in harmful living conditions to the occupiers of No 20.
16. The main living room of the ground floor flat has a side facing window. It would experience overshadowing, reduced sunlight and daylight, and an increased sense of enclosure from this appeal scheme. However, the room is also served by a similar sized window as well as a windowed door, with a relatively good open southwestern aspect and outlook. Given their size, aspect and orientation and based upon the shape and size of the living room on the plans before me, that rear facing window would provide a sufficient level of overall daylight and outlook to that room. So those effects would not result in harmful living conditions. However, this does not mitigate or outweigh the effects upon the bedroom.
17. Though no neighbour objections have been received, this in itself, cannot be taken as a full and objective measure of a development being harmful or not harmful. Furthermore, as the occupancy of dwellings is transient over time, what may be tolerable to one occupier, may not be tolerable to another.

18. For the reasons set out above, the proposed development would result in harmful living conditions to the occupiers of the ground floor flat at No 20 with particular reference to daylight and outlook. This would conflict with the aims of Policy EE1 of the RLP which seeks to ensure there are no adverse impacts upon the amenities of neighbouring properties. It would also conflict with paragraph 135f) of the Framework which seeks that developments promote well-being and create a high standard of amenity for existing and future users.

Character and appearance

19. Much of Station Road and the streets to its north are characterised by quite traditionally designed detached, semi-detached and terraced primarily residential buildings incorporating combinations of gable, cross gable and hipped gable roofs. Many have modest generally pitched roof rear projections. On much of its southern side are generally larger commercial buildings with varying shallower and mono pitched roofs. The appeal site identifies and relates most closely with the primarily residential buildings but is viewed in the context of the commercial development. Its semi-detached pitched roof form with a single storey part width rear projection, and smaller ancillary garden buildings, is in keeping with, and makes a neutral contribution to the character and appearance of the area.
20. The design advice in the Runnymede Design Supplementary Planning Document (2021) advises that extensions should respect the original building, and where visible in the street scene, two storey developments should generally not have flat roofs. While it has the objective of ensuring good quality design, this is advice only and I have not taken it to be a blanket standard to all development. No. 20 has an existing projection that conflicts with this advice and this appeal scheme would be viewed closely in its context.
21. This proposal includes relatively significant ground and first floor rear extensions. The first-floor extension would be markedly above the eaves of No 22 and would result in a form, scale, mass and overall design that would appear bulky, quite strident and be viewed as not subservient or respectful of the host building. I do not share the view it would be only noticeable to the rear. This is because what might appear to be the rear eaves height viewed from Station Road, would be noticeably above the front. Therefore, the resulting arrangement would not be in keeping with buildings in the area.
22. To some degree the appeal scheme would balance the rear of No 22 with No 20, and the projection at No 18 is significantly larger than what is proposed. However, the first-floor projection to No 20 is just below the eaves, so markedly lower and the appeal scheme would appear different. The projections at No 18 and No 16 appear somewhat at odds with their host buildings and not reflective of the prevailing character and appearance of the wider area. Noting the visual relationship of the appeal site with nearby buildings, the frontage changes, and the removal of the existing outbuildings, these do not fully mitigate or outweigh the harmful effects.
23. The harm from the appeal scheme would be visible along a limited length of Station Road due southeast of the appeal site, from a limited part of Downside and parts of the commercial premises. Therefore, though the visibility is not widespread, and might change if the neighbouring plots are developed, the adverse effects of the appeal scheme would still be material and visible. Conditions could not mitigate the harm.

24. For the reasons set out above, the proposed development would be harmful to the character and appearance of the host building and the area. It would conflict with Policy EE1 of the RLP which states that development will be expected to achieve a high quality of design which responds to its local context. The development also conflicts with paragraphs 135c) and 139 of the Framework which expect that development should be sympathetic to local character and history including the surrounding built environment, and states that development which is not well-designed should be refused.

Planning Balance & Conclusion

25. The appeal scheme would result in a limited temporary economic benefit during construction. Once complete there would be a small on-going spend in the local economy and support to local services and facilities. It would bring an underused premises back into use, and result in a net benefit of one additional dwelling. Even if supply were to be regarded as acute, this would be a limited contribution. There may be some reduced parking pressure compared to a retail use. The existing undersized first floor flat would be extended. Subject to the imposition of suitably worded conditions the scheme might result in an overall benefit in respect of contaminated land. It could also ensure a Biodiversity Net Gain. Based upon the magnitude of benefits, overall, they attract moderate weight in favour of the scheme.
26. Securing compliance with policies in respect of the other living conditions of neighbouring occupiers and future occupiers of the appeal scheme not referenced above, would be neutral matters in the balance. As too, would be compliance with policies in respect of matters such as the development location, resource and energy efficiency measures, cycle parking provision and refuse storage and collection.
27. However, the proposed development would result in some overall harm to the character and appearance of the host building and the area, attracting limited weight against the scheme. It would result in harmful living conditions in a bedroom for the occupiers of No 20 Station Road, which attracts moderate weight against the scheme. The LSEs upon the SPA is a matter that attracts substantial weight against the scheme. Therefore, the benefits of the development are significantly outweighed by the harm that would result. Moreover, section 63(5) of the Regulations precludes the proposed development from proceeding.
28. Therefore, the proposed development would be contrary to the development plan read as a whole, the Framework read as a whole, and the Regulations. There are no considerations advanced, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Mr D Szymanski

INSPECTOR