



Appeal Decision

Site visit made on 15 August 2025

by **C Walker BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 August 2025

Appeal Ref: APP/Z3635/W/25/3366458

35 The Avenue, Sunbury-on-Thames, Surrey TW16 5HY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr and Mrs Ranjeet and Amrit Kaur Rana against the decision of Spelthorne Borough Council.
- The application Ref is 25/00199/RVC.
- The application sought planning permission for the erection of a replacement detached dwelling house to replace existing detached property and garage without complying with a condition attached to planning permission Ref 24/00369/FUL, dated 19 September 2024.
- The condition in dispute is No.2 which states that:

“The development hereby permitted shall be carried out in accordance with the following approved plans 2023/18/L01 Revision A, 2023/18/PE04 Revision A, 2023/18/PE08 Revision A, 2023/18/PE01 Revision A, 2023/18/PE05 Revision A, 2023/18/PE06 Revision A, 2023/18/PE07 Revision A, 2023/18/PE02 Revision A and 2023/18/PE03 Revision A Received on 22.03.2024, 2023/18/DAS01 Revision C, 2023/18/DAS02 Revision C, 2023/18/PP05 Revision C, 2023/18/PP09 Revision C, 2023/18/PP06 Revision C, 2023/18/PP07 Revision C, 2023/18/PP08 Revision C, 2023/18/PP02 Revision C, 2023/18/PP03 Revision C and 2023/18/PP04 Revision C Received on 10.05.2024, and 2023/18/PP01 Revision D Received on 31.05.2024.”
- The reason given for the condition is: “For the avoidance of doubt and to ensure the development is completed as approved.”

Decision

1. The appeal is allowed and planning permission is granted for the erection of a replacement detached dwelling house to replace existing detached property and garage at 35 The Avenue, Sunbury-on-Thames, Surrey, TW16 5HY in accordance with the application Ref 25/00199/RVC, without compliance with condition number 2 previously imposed on planning permission Ref 24/00369/FUL dated 19 September 2024 and subject to the conditions shown in the attached schedule.

Preliminary Matters

2. The application subject of this appeal is made under Section 73 of the Planning Act for minor material amendments. It seeks a revised but not a substantially different design to the replacement dwelling approved in September 2024. The scope of the proposed changes is narrow, limited to roof alterations including the installation of two additional rear facing dormer windows. This type of application is possible as a condition was imposed on the original permission specifying the approved plans. This appeal effectively seeks the removal of the condition and its replacement with a condition specifying the plans that reflect the amended design.

3. My attention is drawn to an emerging Draft Local Plan submitted under Regulation 19¹ for examination which has now taken place. The evidence before me suggests that public consultation still needs to take place on the Main Modifications. I have not been provided with copies of any relevant policies of the Draft Local Plan. Both main parties agree it has limited weight. I have therefore determined the appeal in line with the adopted development plan.

Main Issue

4. The main issue is the effect of the development on the character and appearance of the area.

Reasons

5. The Avenue is lined with predominantly detached two storey dwellings, typically set back in their respective plots behind a footpath and wide grass verges. Many dwellings have hipped and crown roof designs, contributing to the sense of spaciousness between plots. Many also incorporate mature trees within their frontages, including the appeal site which contains a large specimen protected by a preservation order, giving the area a verdant character and appearance.
6. The ridge-line height of the proposed dwelling would remain as previously approved, albeit the appellant advises that the pitch at each side would increase from 30° to 40°. This would add some additional bulk to the street-scene, but not significantly so. The amended roof design would not be unusual for the context, where other dwellings along this side of The Avenue, particularly to the north at No's 43 and 45, have a similar style roof.
7. This subtle change to the roof design would not significantly alter the character or appearance of the area to such a degree that it would adversely affect it, nor would it result in an unduly prominent dwelling. I find that the proposal accords with the design guidance contained within the Council's 'Design of Residential Extensions and New Residential Development' Supplementary Planning Document 2011 (SPD). Amongst other things this indicates that where large areas of flat roof between pitched roof areas are proposed, and/or roof pitches are in excess of 45°, they may be out of character with a locality.
8. On the rear elevation, the revisions would result in a slightly narrower central dormer and two smaller additional dormers on either side compared to the approved scheme. These are arranged to match the rhythm of the windows below and are symmetrical. They are also set in from the roof edge, down from the ridge line and elevated from the eaves. Whilst not rigidly meeting all the guidance within the SPD particularly in respect of the prescribed distances, I find that the dormers broadly follow the design principles set out and represent good design. Their modest sizes do not constitute a top-heavy development that would adversely affect the character and appearance of the area.
9. Whilst glimpses of the new dormers may just be achievable between the gaps in dwellings, these are discreetly sited to the rear and overall would have a very limited effect on the street-scene. Additionally, the plans show a proposed roof light placed centrally on the enlarged flat section of the roof which would be largely imperceptible to both neighbouring occupiers and from the public realm.

¹ of the Town and Country Planning (Local Planning) (England) Regulations 2012

10. The boundary to Lower Sunbury Conservation Area (CA) and Sunbury Park abuts the rear boundary of No. 35 and its neighbours along the western side of The Avenue. The heritage significance of the CA is architectural and historical and relates to the evolution of Lower Sunbury's built environment over time, its well designed buildings and high quality, mature landscaping. There is nothing to suggest that the appeal site makes any contribution to the heritage significance of the CA. Owing to the acceptable design of the proposal and the substantial screening provided by the established trees within its back garden and park, the setting and significance of the CA would not be adversely affected by the proposed scheme.
11. Overall, I am satisfied that the design of the replacement dwelling would adequately respect the character and appearance of the area. It follows that I have not identified conflict with Policy EN1 of the Spelthorne Core Strategy and Policies Development Plan Document (2009). This, amongst other things expects a high standard of design, and requires development to respect and make a positive contribution to the street scene and the character of the area in which it is situated, having due regard to the scale, height, proportions and other characteristics of adjoining buildings and land. This policy aligns with the thrust of the National Planning Policy Framework (the Framework), particularly Section 12 which seeks to secure well-designed places.

Other Matters

12. I am mindful of the third-party representations that have raised concerns with the scheme, including the effect on the living conditions of neighbours. However, these matters are not raised by the Council, and I have seen little substantive evidence to show that there would be unacceptable harm in these respects arising from the proposed development. Based on the available evidence, these matters attract a minor degree of weight and so, would not lead me to find differently overall.

Other Conditions

13. National Planning Policy Guidance (NPPG) makes clear that permission granted under section 73 takes effect as a new, independent permission subject to new or amended conditions. In allowing this appeal, I essentially replace the original plan condition with one that reflects the amended design. This new permission retains the non-disputed conditions from the previous permission that remain relevant, albeit I have updated these to have regard to the recent discharge of condition approvals. I have considered the Council's drafted conditions and have amended these to meet the tests of the Framework.

Conclusion

14. For the reasons set out above, I therefore conclude that the appeal should be allowed.

C Walker

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 19 September 2027.
- 2) The development hereby permitted shall be carried out in accordance with the following approved drawings: 2023/18/L01 Revision A, 2023/18/PP05 Revision D, 2023/18/PP09 Revision D, 2023/18/PP06 Revision D, 2023/18/PP07 Revision D, 2023/18/PP08 Revision D, 2023/18/PP04 Revision D, 2023/18/PP01 Revision D, 2023/18/PP02 and 2023/18/PP03.
- 3) The development hereby approved must be carried out in accordance with the details of materials contained within the document entitled Condition 3-Proposed Materials (2023/18/PC01 Revision A) in relation to the Discharge of Conditions application 24/00369/DC1.
- 4) The scheme hereby permitted shall be carried out in accordance with the approved Arboricultural Method Statement (ref. TC-240116 AMS-250404 dated 04.04.2025) submitted within the Discharge of Conditions application 24/00369/DC2.
- 5) The scheme hereby permitted shall be carried out in accordance with the approved Construction Management Plan and drawing no. 2023/18/PC03A Revision D submitted within the Discharge of Conditions application 24/00369/DC2.
- 6) The development hereby approved must be carried out in accordance the information provided within the Discharge of Conditions application 24/00369/DC1 in regard to the bird boxes and bat boxes/tubes.
- 7) The proposed demolition and construction works shall be carried out strictly in accordance with the mitigation measures set out in the Recommendations section of the SIMLAW Full Bat Roost Assessment dated 10 September 2024.
- 8) The application shall be carried out in accordance with agreed revised Pre-Commencement Energy Statement (ref. GT317-35 The Avenue-2503-07 dated 07.03.2025) prepared by Green Tiger Sustainability under Discharge of Condition application 24/00369/DC2. The agreed measures shall be implemented with the construction of the new dwelling and thereafter retained.
- 9) The development hereby approved shall be carried out in accordance with the information provided within the Discharge of Condition application 24/00369/DC2 in regard to contamination.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order), no extensions or new outbuildings shall be erected to the residential development hereby permitted without the prior planning permission of the Local Planning Authority.

- 11) The development hereby approved shall not be first occupied unless and until space has been laid out within the site in accordance with the approved plans for vehicles and cycles to be parked. Thereafter the parking area shall be retained and maintained for its designated purpose.
- 12) Prior to the occupation of the development hereby permitted the first floor windows on the northern and southern elevations shall be obscure glazed to a minimum of level 3 obscurity and be non-opening to a minimum height of 1.7 metres above internal floor level. These windows shall thereafter be permanently retained as installed.
- 13) The rated noise level from the Air Source Heat Pump (ASHP) hereby approved shall be at least 10 dB(A) below the background noise level at the nearest noise sensitive property as assessed using the guidance contained within the latest BS 4142 (2014).
- 14) The acoustic enclosure/screening surrounding the Air Source Heat Pump (ASHP) hereby approved shall be installed prior to the building being occupied. Development shall be carried out in accordance with the approved details and be maintained as approved.
- 15) Prior to the occupation of the development hereby permitted, the sustainability measures proposed in the supporting Climate Change Checklist shall be incorporated into the design of the development and/or site layout as relevant. Thereafter the approved sustainability measures shall be retained and maintained.

End of Condition Schedule