



Appeal Decision

Site visit made on 19 November 2025

by H Miles BA (hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th December 2025

Appeal Ref: APP/Z3635/W/25/3369002

Land at Catherine Drive, Sunbury on Thames, Middlesex TW16 7TF

- 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 Sunil Patel against the decision of Spelthorne Borough Council.
 - The application Ref is 24/01299/FUL.
 - The development proposed is erection of 6 no. two-storey affordable dwellings grouped into two buildings, with the creation of an enhanced public amenity space and retention of urban open land and associated parking provision.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are;
 - the effect of the proposed development on the character and appearance of the area, including with regard to trees.
 - the effect of the proposed development on the provision of open space in the area.
 - Whether the site would be suitable for its proposed use taking into account risks from contamination.

Reasons

Character and appearance

3. The appeal site is an open grassed area at the end of Catherine Drive. It is surrounded by the road with houses facing onto it. These properties appear as two storey, semi detached dwellings, although some are occupied as maisonettes. There are clear and regular gaps between pairs and landscaped front gardens provide separation from the road. This results in a sense of spaciousness and pleasant, consistency to the pattern of development and appearance in this area.
4. The open space is clearly visible from the road and this location is prominent in public views. Its layout and position provide a green and attractive break in development and relief from the surrounding built form and it makes an evident positive contribution to the spacious character of the area. There are trees on the site, some of which are mature trees protected by Tree Preservation Orders (TPOs). Their spacing across the site and prominent established canopies are a marked and positive feature of this green space. At the time of my visit there were

goalposts and other play equipment along with benches on the land. Overall, the land makes an important and significant contribution to the quality and character of the urban area.

5. The proposed development would introduce two rows of three, two storey terraced houses to the site. Around the individual plots would be footpaths and planting, along with a strip of land to the side of the site and area to the south which would be for public use, with play equipment and a bench.
6. The appeal scheme would introduce a significant amount of development to this open area resulting in a residential, developed appearance to the majority of the site. This would seriously undermine its attractive, valuable open and green characteristics.
7. The Arboricultural Report shows the removal of a total of 5 trees and the Landscape Design Statement shows replacement planting of 13 trees. Three of the trees to be removed are young or sapling trees which would be replaced and one of these has basal decay. The arboricultural report states the other two mature ash trees have Ash dieback disease. However, interventions other than removal may be possible to allow the Ash trees to be retained. Works to some crowns are also proposed which would result in an unbalanced appearance to these retained trees. Whilst there would be limited excavation for the proposed car parking area within the Root Protection Zone (RPZ) of some of the retained trees, it appears a sufficiently large area of the RPZ would remain undisturbed which would avoid harm to these trees. The replacement planting would go some way to mitigate the loss of trees, however given the proximity of the proposed houses and windows, it is likely that many of these trees would require management and would be unlikely to be as prominent in the streetscene as the mature trees that would be lost. Therefore, overall, the proposed development would result in the loss or deterioration of existing trees, including those with TPOs and the replacement planting would not be suitable to mitigate this harm. Consequently, the effect on trees would also contribute to the erosion of the green character of the area.
8. The design of the dwellings would be symmetrical and their height would be similar to those nearby. Details of materials could also be secured by condition. However, the houses would be narrow and closely spaced with limited front garden space which would be cramped in this context and visually jarring against the spacious character of the area.
9. I have assessed the scheme on the basis of the drawings before me now. While any development which would further undermine the positive characteristics of this area which includes the open space would also be unlikely to be acceptable, that does not alter my assessment of the appeal scheme.
10. Overall, the loss of the open space and trees would unacceptably erode the important open appearance of the site. Furthermore, the proposed built form would harmfully undermine the pattern of development in this area. Taking these factors together, the public and permanent harm to the character and appearance of this area would be significant.
11. Therefore, the proposed development would be harmful to the character and appearance of the area, including with regard to trees. As such, it would be contrary to Policies EN1 and EN7 of the Spelthorne Core Strategy and Policies Development Plan Document (2009) (CS). Together these require that preserved

trees should not normally be felled and require a high standard of design in new development which makes a positive contribution to the character of the area.

Open Space

12. The land is accessible to the public and has been used for recreational purposes by nearby occupiers and visitors to the area including for children's play, dog walking, and as a meeting place. It is allocated as Protected Urban Open Space (PUOS) in the CS and is also an Asset of Community Value which would mainly relate to circumstances around the sale of the site, but nevertheless together these are indicative of its community value. Overall, it provides a valuable recreational and visual function
13. As previously set out, the open space is clearly visible to the public and its openness makes a significant contribution to the quality and character of the urban area by virtue of its prominence, layout and position in relation to built development in the locality. In these circumstances Policy EN4 seeks the retention of this open space other than in exceptional circumstances which, of relevance in this case, include that the remainder of the site is enhanced so its public value in visual and functional terms is equivalent to the original site or better.
14. The development would notably reduce the size of the usable recreational space. Although the appellant states that over 60% of the site would be retained as open space, this includes footpaths, car parking spaces and planting. However, the open space available for recreation would be split into two separate areas which the Council calculates to be approximately 237sqm and 91sqm. These would be provided with play equipment, benches and planting.
15. The size of the space would be significantly reduced, and it would be fragmented. Although equipment would be provided, nevertheless, the proposed size and layout of the spaces would notably limit their functional use compared to the existing much larger space. Landscaping is also proposed but, as stated elsewhere in this decision, the proposed replacement trees are unlikely to be similarly visually prominent to those that would be replaced. It would therefore be a poorer provision than previously existed and I am not satisfied that the public value in visual and functional terms would be equivalent to or better than the original site. The protection of existing open space is necessary for wellbeing and health which are important matters. Considering the substantial loss and inadequate re-provision, the harm in this regard is significant.
16. Although the surrounding houses have private rear gardens, the use of public and private amenity space differs. Therefore, these private gardens do not replace the value of access to this publicly accessible open space.
17. As such the proposed development would have a harmful effect on the provision of open space in this area. Consequently, it would be contrary to policy EN4 of the CS, the aims of which are set out above.

Contamination

18. A phase 1 environmental report has been submitted which identifies a moderate risk of potentially significant contamination on site, from potential sources of pollution associated with the site's former use as a ballast pit, the unknown nature of fill material, and former tanks and travelling crane off site and naturally occurring

contaminants. The report recommends an intrusive geotechnical investigation to be carried out, the results of which will enable remedial works to be formulated and it is suggested these could be secured by condition.

19. The RPZs of the TPO trees proposed to be retained appear to extend into the proposed areas of landscaping. Within these RPZs there would be limited excavation in the car parking spaces and elsewhere there would be a cellular confinement system for the sub base layer, which would be built directly on top of the existing soil to minimise any other required digging within the RPZ. The RPZs do not appear to fall within the proposed private rear gardens, and as such it is unlikely that there would be limitations on excavations within these areas. Consequently, based on the evidence before me now, it appears that appropriate investigation and remediation measures could be secured by appropriate precommencement conditions which would enable the site to become suitable for use.
20. Therefore, the site would be suitable for its proposed use taking into account risks from contamination. As such, it would be in accordance with policy EN15 of the CS which requires that on land affected by contamination, action must be taken to ensure the site is safe for its intended use. Nevertheless, the lack of harm in this regard is a neutral matter which does not weigh in favour of the development.

Other Matters

21. In April 2024, the Council's housing land supply position was 3.8 years, although a recent appeal (LPA ref: 23/00070/FUL) has identified around a 2.4 year supply of deliverable housing sites. In addition, the latest housing delivery test results indicate that the delivery of housing was substantially below the housing requirement over the previous three years. This position is likely to worsen with rising housing need and the delivery of housing being lower than the target levels. The appellant also submits that there is an affordability crisis in this borough which is not disputed by the Council.
22. The proposed development would provide six new affordable, social-rented dwellings. Policy HO3 of the CS does not require the provision of affordable housing on sites of this size, and I note that emerging policy takes the same approach. Therefore, the provision of affordable units exceeds policy requirements. This would make a positive contribution towards the undersupply of homes including affordable housing. The houses would be within an existing settlement and have been designed to result in zero operational carbon emissions. Although there would not be a range of unit sizes, the development would contribute towards an identified need for 2 bedroom homes. These are important matters. Nevertheless, taking into account the scale of the development, overall this results in moderate benefits in this case.

Planning Balance

23. The Council does not have a five year housing land supply. Consequently, the presumption in favour of sustainable development contained within paragraph 11 d) of the National Planning Policy Framework 2024 (Framework) would be engaged. This requires that planning permission be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the development, when assessed against the policies within the Framework taken as a whole having particular regard to key policies.

24. The scheme would provide an increase of 6 affordable housing units in an urban area where there is a shortfall in the delivery of housing and affordable housing, along with the associated social and economic benefits of this provision. It would therefore provide affordable homes and direct development to a sustainable location. Nevertheless, for the reasons above, this results in important, but moderate benefits.
25. On the other hand, the development would not be sympathetic to local character and would result in the loss of an important public open space, and I have identified significant harm with regard to both of these matters. As such it would not secure a well designed place or make an effective use of land in this regard. Together, the harm would be significant.
26. As such, even taking into account the lowest housing land supply figure put to me, these significant adverse effects would significantly and demonstrably outweigh the moderate benefits set out above when assessed against the Framework taken as a whole and having particular regard to key policies. Consequently, the presumption in favour of sustainable development would not apply in this case.

Conclusion

27. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given above the appeal should be dismissed.

H Miles

INSPECTOR