

RE : FORMER MASONIC HALL AND OLD TELEPHONE EXCHANGE, ELMSLEIGH RD, STAINES

OPENING STATEMENT BY SPELTHORNE BOROUGH COUNCIL

1. The appeal scheme, on a town centre site which the Council accept is suitable in principle for residential development, is a textbook example of maximisation by a developer. It is that maximisation which would give rise to the harm which is at the heart of this appeal.
2. The appeal site is an area measuring 0.53 ha comprising the former Masonic Hall and cleared land which used to be home to the Telephone Exchange. The site is not within a Conservation Area and does not contain any listed buildings. It is located within Phase 4 of Site Allocation A10 in the 2009 Allocations Development Plan Document for the extension of the Elmsleigh Shopping Centre to include at least 18,000 sq m of retail floorspace, a mix of no-retail uses and approximately 65 flats. The Council do not object to the absence of retail in the proposed scheme, in recognition of changes to the retail sector since 2009.
3. However, by accepting that in principle a residential-only scheme on the site is not objectionable, the Council are not providing carte blanche to developers.
4. What is proposed in this case are two towers, one 51.4m in height comprising 16 storeys (including plant level) and the second tower 44.5 in height comprising 14 storeys (including plant level) . Together, the two towers would provide 206 flats.

5. To be clear, the taller of the two towers proposed would be the tallest building in Staines.
6. The Council say that unacceptable harm would result for two reasons :
 - (1) The development would have an unacceptable impact on the character and appearance of the area by virtue of its height ;
 - (2) The development would have an unacceptable detrimental impact on the amenity of residential properties in the area as a result of parking pressure.
7. The appeal is to be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan comprises the Spelthorne Core Strategy and Policies Development Plan Document (2009), the Spelthorne Allocations DPD (2009), and the saved policies of the Spelthorne Local Plan (2001).
8. The policies at the heart of the objections are CC3 and EN1.
9. The NPPF is an important material consideration. It is accepted that the Council are not currently able to demonstrate a 5 Year Housing Land Supply¹ as they can demonstrate a 4.5 years supply, and therefore that the so-called tilted balance set out in paragraph 11 is engaged. However, the Council's case even applying that balance is that the adverse impacts arising from a grant of consent would significantly and demonstrably outweigh the benefits.
10. It is agreed between the parties that the policies of the emerging local plan, which has yet to progress to the Regulation 19 consultation, should at this stage carry negligible weight in the consideration of this appeal².

¹ SOCG 7.4

² SOCG 6.26

Character and appearance of the area

11. In terms of height the context of the appeal site is one of low to medium height, and much lower in height than the towers proposed by the appeal scheme. The Debenhams building is maximum of 4 storeys (reducing to 2-3 storeys in part), the Tothill car park is 5 storeys, Communications House is 5 storeys, the Elmsleigh Centre is 2-3 storeys. And the Community Centre is 2 storeys. The properties to the west of the river comprise predominantly 2 storey residential dwellings.
12. In views from the west and in particular from the western and eastern towpath of the river, from the domestic properties west of the river, and from the Memorial Garden, the proposed towers would be incongruous and dominant. This effect can be appreciated in Viewpoints 1 and 2 produced as part of the appellant's TVA.
13. In views from the South, the towers would loom large over the Tothill car park, as can be seen in Viewpoint 3 ; and in views from the North would again be a looming presence as evidenced in Viewpoints 5 and 7. A further albeit lesser adverse impact would arise in views from the south-west as evidenced in Viewpoint 9.
14. It would not be correct to say that visibility equals harm. That is not the case made by the Council. It is the specific impacts on the character and appearance of the area that matter. Those impacts would be harmful.
15. The appellant seeks largely to divert attention from the immediate context by relying on :
 - (a) The height of consented schemes in a different part of the town centre or on the edge of the town centre ;
 - (b) Reference to undetermined applications on other sites ;
 - (c) Reliance on a draft SPD (Development Framework DPD, previously referred to as a masterplan) which carries negligible weight at this stage of its evolution.

16. These detours encouraged by the appellant do not weigh on the real issue which is the impact on the area surrounding the appeal site.

Parking

17. The appellant proposes that 48 car spaces will be provided for the 206 apartments which the towers would accommodate.

18. Spelthorne have adopted parking standards³, according to which the scheme should be providing 260 spaces (based on 46% affordable housing ; or 266 spaces based on the alternative approach put by the appellant for 34% affordable housing).

19. Those standards need not be applied rigidly and in an accessible town centre location such as the appeal site can be applied with flexibility. That does not, however, mean that they can be virtually ignored altogether.

20. The parties have set out in their evidence how relevant car ownership levels can be established. The basis for that is the 2011 Census data, and the appellant has suggested a modest adjustment be made based on DVLA information as to falling rates of car ownership. The Council's case is that the car ownership assessment indicates that the appeal scheme would result in more than 100 car owners who would not be able to park off-street at the site.

21. There is broad agreement between the parties that there is little or no capacity for parking in the nearby surrounding streets, which are located to the south of the site. As the appellant puts it⁴ “[...] the nearest on-street spaces, which are still a significant distance from the site, provide limited opportunities for off-street parking”.

³ Spelthorne Parking Standards CD5.6

⁴ PJ Proof 4.6.8

22. It is the Council's case that this will result in a very significant number of residents at the appeal site seeking to park in surrounding streets where there is little or no capacity. This will inevitably further limit parking available to existing residents, harming their residential amenity by forcing them to park a considerable distance away from their homes. As a secondary impact, there will be an amenity impact on the future occupiers of the appeal buildings who are unable to park locally.

23. The appellant's response to this is principally twofold :

- i. That the car ownership levels at the appeal site can be mitigated by the provision of a car club facility and by a Travel Plan, both of which flatter to deceive ;
- ii. That the car ownership level amongst occupiers at the site would be significantly reduced because of the limited parking.

24. In the Council's view neither of these matters would adequately overcome the issue.

Planning balance

25. Planning is always about balance, and like all cases there will be some benefits from the proposed development principally in the form of the provision of housing and affordable housing.

26. However, the degree of harm that would flow from these proposals would significantly and demonstrably outweigh the benefits.

27. It is noted that at a late stage, during the appeal process, the appellant has submitted updated viability evidence to demonstrate that the maximum viable amount of affordable housing has reduced (for the time-being, although no review mechanism is proposed in the s106 agreement) to 34%. However, the appellant still wishes to leave the option of 46% on the table. More will be said about this at the

appropriate stage of the Inquiry, save to say that if what is deliverable is 34% affordable housing then this attracts less weight in the planning balance than the greater provision. Even at 46%, if it was viable, the scales would still weigh decisively against the appeal scheme.

28. The scheme proposed is not the appropriate solution for the site. The appeal should be dismissed.

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