

APPEAL BY INLAND LTD

**THE OLD TELEPHONE EXCHANGE, MASONIC HALL AND ADJOINING LAND,
ELMSLEIGH ROAD, STAINES ON THAMES**

COUNSEL:

Paul G Tucker QC

Piers Riley-Smith

INSTRUCTED BY:

Mr Simon Slatford – Senior Director, Lichfields

WITNESSES:

Mr Colin Pullan BA (Hons) DipUD, Head of Urban Design and Masterplanning, LSH

Mr Philip Jones, Chairman, PJA

Mr Simon Slatford – Senior Director, Lichfields

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OPENING SUBMISSIONS ON BEHALF OF THE APPELLANT

(i) Introductory Matters

1. This Appeal concerns the refusal of planning permission by Spelthorne Borough Council ('the Council') on 24 June 2021, contrary to officer's recommendation, for the demolition of the former Masonic Hall and the construction of two buildings of 15 and 13 storeys to provide 206 residential units ('the Application') at Former Masonic Hall and Old Telephone Exchange, Elmsleigh Road, Staines-upon-Thames ('the Site').
2. The Site is in the heart of Staines-upon-Thames Town Centre, it makes efficient use of previously developed land and is highly accessible. Indeed, it is hard to think of a more accessible site elsewhere in the Borough. The site consists of an area of cleared land which had been the Telephone Exchange (a building of four and five storeys) and a former Masonic Hall. It is a Site that is ripe for residential re-development, at an appropriate density.
3. The Application was unequivocally recommended for approval by Officers which was the result of extensive pre-application discussions with the Appellant to ensure that all concerns had been adequately addressed. Despite this the Council refused the Application for one discursive Reason for Refusal (RfR):

The proposals, by virtue of the height of the two towers and inadequate car parking, represent an unacceptable overdevelopment of the site resulting in a development which is:

- i) *out of character with the surroundings and fails to have due regard to the height of adjoining buildings and land, resulting in a development which would not make a positive contribution to the street scene and would have a detrimental impact on the character of the area and the street scene, and*

- ii) *is likely to result in unacceptable parking stress on residential roads in the locality which would be detrimental to the amenity of residential properties, contrary to Policies EN1(a) and CC3 of the Spelthorne Borough Core Strategy and Policies Development Plan Document, 2009, and the Parking Standards Supplementary Planning Guidance, 2011.*

4. There are two main issues for determination at this Appeal therefore (as set out in the Inspector's CMC Summary Note):

- i) *The effect of the proposal on the character and appearance of the area*
- ii) *The effect of the proposal on the living conditions of the occupants of nearby properties with regard to car parking.*

(ii) Overview of Council's Case

- 5. In Opening the intention is to briefly outline the Appellant's case on both of those issues, but before doing so it is important to recognise that there are a substantial number of areas where the Appellant and the Council agree.
- 6. The Council do not have a five-year housing land supply and the tilted balance is applied under paragraph 11 of the NPPF and there is a presumption in favour of sustainable development. The Site is immediately available and is controlled by a residential developer with an impressive track record and so would contribute to the housing supply in the short term. This Application would involve the efficient re-development of a vacant and disused previously developed plot of land in the heart of Staines Town Centre to deliver much needed housing. The numerous benefits associated with this alone cannot be overstated.
- 7. This is before account is then taken of the significant affordable housing provision¹ and the additional public benefits from the creation of new pedestrian links and landscaping creating an attractive route from the High Street to Memorial Gardens.

¹ In its s.106 obligation, the Appellant has provided for either 34% or 46%. The former is agreed to comprise the maximum objectively viable figure, the latter comprises the percentage that was offered at the time of the application. There is an issue between the parties as to which % would be necessary (and thus meet the CIL 122 test) and therefore both figures are offered as alternatives with a blue pencil clause within the draft of the s.106 Agreement. The Appellant's primary case is that the figure should be 34%, but it recognises that the Inspector

8. Whilst there is a disagreement between the parties as to the design of the scheme, that would seem to be confined only to the height of the two buildings. There is agreement on every other element of design including footprint, materials, sunlight and daylight, the quality of the living accommodation (i.e. spatial standards) as well as the amenity impact on neighbouring properties.
9. The Application also accords with the direction of travel for the Council's aspirations for Staines. This Site is part of a larger allocation in the emerging Local Plan which would include a requirement to deliver around 650 residential units. Whilst it is at an early stage this shows that the Application not only meets the current needs and local policy aims but also accords with the future vision for Staines.
10. The focus of this Inquiry will naturally be on the two areas of disagreement but that should not underplay the significant agreed social and economic benefits that this Application would bring to the Council and to Staines Town Centre.
11. The Appellant will address the Council's first element of the RfR (design) through the expert evidence of Colin Pullan. Mr Pullan's role is that of an independent design expert who has assessed whether or not the Council's concerns are warranted. His very clear view is that officers were correct and that members fell into error, which is why he is able to support these proposals at this appeal. A key principle to note is the most obvious ie that change does not automatically equate to harm. Development will always bring about change but that change needs to be viewed in the surrounding context of the area.
12. The Site sits within a townscape that is not of particular value and therefore consideration should not go beyond the general design principles and policies of optimised and responsible design.
13. The buildings of the Scheme would sit within a Town Centre context which already includes several tall building developments which are either are built, being constructed, or have secured planning permission from the Council (e.g Charter House - 13 storeys), Eden Grove – 15 storeys, Mill Mead – 11 storeys).

may conclude that figure should be 46% if there is a need to outweigh some harm (which is contested). At 34% the Appellant has confirmed that the scheme is deliverable despite the mix of AH and general housing in block.

14. While the proposed buildings would undoubtedly be a change to the existing character, far from being out of character with the surroundings the Scheme would complement the existing context and enhance the overall townscape forming a transitory 'step up'. This was a view shared by the Council's Officers in their Report²
15. The acceptability of the design of the buildings also needs to be viewed in the wider context of national policy's clear imperative to make efficient use of land especially in highly accessible locations such as these (NPPF 124).
16. Through the evidence of Mr Pullan the Appellant will show that the design of the buildings overall, especially in relation to their height, represents good quality design and is an appropriate response to the wider character of the area and townscape. That is particularly when compared to the current state of the Site³ the proposed buildings will make a positive contribution to the street scene.
17. The Appellant will address the Council's second element of the RfR (parking) through the expert evidence of Philip Jones.
18. The Application includes 48 parking spaces with 220 cycle spaces, 6 motorcycle spaces and 2 car club spaces. Although this is below the quantum arising from the Council's Parking Requirements SPD 2011 the extent of car parking has been agreed with the Surrey County Council as highway authority who have had regard to the Site being in a highly accessible location in the town centre and would not give rise to adverse highway impacts.
19. The Council agree with the Highway Authority that the Application would not result in unacceptable impact on highway safety or severe residual cumulative impacts on the road network – i.e this does not trigger NPPF 111. Instead, the concern seems to be that there is a risk of competition between existing and new residents for public on street car parking spaces. The Appellant will question whether the Council's stance is consistent with the Appellant's intention of an essentially car-free development for most residents which is clearly an integral part of the Application. But even if it was a logical concern for the Council to have, it is not justified by the evidence.

² Para 7.62

³ Which was described by Officers at 7.62 as '*an unattractive town centre site*'

20. Mr Jones will set out how the lower parking provision is appropriate given the location and also that real alternatives are proposed to private car ownership such as the Car Club and benefits provided to residents to promote car free travel (discounts on rail fare etc) as part of the Easit Sustainable Travel Scheme.
21. Critically Mr Jones will go onto show, through an examination of the existing parking restrictions and Parking Survey results, that there is no unrestricted car parking in the vicinity of the site and the nearest unrestricted spaces are already subject to high demand. This will deter prospective residents who own a car and are not allocated an on-site car parking space from choosing to live at the site. As a result, there will be no unacceptable increase in parking stress.
22. Despite all of all the above – and the Appellant’s confidence that the Application will not result in unacceptable parking stress – the Appellant has nonetheless offered a financial contribution which would allow for a review of parking restrictions in the Gresham Road area and, if required, fund the introduction of a residents parking zone. This is put forward very much as a ‘safety net’ provided by the Appellant to meet a concern that, even at the outset of this Inquiry, is unevidenced by the Council.
23. Through the evidence of Mr Jones, the Appellant will show that the Council’s concern of a detrimental impact on residents’ amenity due to parking stress is inconsistent with the car-free principle of the Application, ignores the alternatives to private car ownership, and is unjustified by the evidence before the inquiry.
24. Overall, the Application would provide a high-quality scheme in a highly accessible location on brownfield land and provide much needed housing and affordable housing. There are no adverse effects which significantly & demonstrably outweigh the benefits and, as the tilted balance is agreed to be engaged, permission should be granted.
25. Paragraph 11 does render the Spelthorne Borough Core Strategy 2009 out of date but that does not mean that the policies are rendered irrelevant. It the Appellant’s case that the Application would accord with the Core Strategy as a whole and this should be given significant weight by the Inspector.

26. The only policies the Council contend this Application breaches are EN1 (a) and CC3. Mr Slatford will address why, in relation to EN1, the new buildings would respect the local area and pay due regard to the adjoining buildings while at the same time having their own distinct identity. The Application entirely accords not just with EN1 (a) but all of EN1. Equally in relation to CC3 the proposal would provide appropriate parking given the highly accessible location of the Site and the car-free principle it espouses.
27. The Appellant firmly believes that the proposal would accord with the Core Strategy as a whole but even if conflict were found in relation to either EN1 (a) or CC3 – the wider benefits of the proposal and its accordance with the principles and aspirations of the NPPF would provide ample material considerations to justify permission being granted.
28. The Application was recognised by Officers as being suitable, well-designed, and sustainable development which would provide much needed housing on a vacant disused plot of previously developed land in Staines Town Centre. It is the type of development that the Council should be welcoming, not resisting and – viewed properly – is in line with their future aspirations for Staines.
29. The Appellant will therefore, at the conclusion of this Inquiry, invite the Inspector to agree with both the Appellant and the Council's professional Officers – to grant permission and allow this Appeal.

Paul G Tucker QC

Piers Riley-Smith

30th November 2021

KINGS CHAMBERS