

Appeal Decision

Site visit made on 22 November 2016

by Rory Cridland LLB (Hons), PG Dip, Solicitor

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 January 2017

Appeal Ref: APP/E0345/W/16/3154971

51 Cressingham Road, Reading RG2 7RX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Morningwood Developments Ltd against the decision of Reading Borough Council.
 - The application Ref 160820, dated 29 April 2016, was refused by notice dated 22 June 2016.
 - The development proposed is for the demolition of existing house & garage. Erection of new building containing 4 x 2-bed and 4 x 1-bed flats with associated car parking.
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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 29 December 2016.

Decision

1. The appeal is dismissed.

Preliminary matters

2. The appellant has submitted an additional drawing with the appeal¹ that did not form part of the planning application determined by the Council. It provides further details regarding the proposed access and visibility splays. I have considered this drawing under the principles established by the Courts in *Wheatcroft*². I am satisfied that it does not change the nature of the scheme to such a degree that to consider it would deprive those who should have been consulted on the change, the opportunity of such consultation. I have therefore determined the appeal with regard to it.
3. The Council is satisfied that drawing number 3308/256A demonstrates that satisfactory access arrangements and visibility splays can be provided which comply with their adopted standards. I concur and have therefore not considered these issues in my reasoning below.

Main Issues

4. The main issues are:
 - (i) the effect of the proposed development on the character and appearance of the area;

¹ Drawing ref 3308/256A

² *Bernard Wheatcroft Ltd v SSE (1982) JPL, 37*

- (ii) the effect of the proposed development the living conditions of No 93 Birdhill Avenue with particular reference to overlooking;
- (iii) the effect of the proposed development protected trees;
- (iv) the effect of the proposed development on highway safety with particular regard to parking and waste collection; and
- (v) whether the proposal makes adequate provision for affordable housing.

Reasons

Character and appearance

5. The appeal site is situated on the corner of Cressingham Road and Birdhill Avenue. It consists of a detached dwelling set within a generous plot which, along with No 47 opposite, provides an attractive, open and spacious entrance to Birdhill Avenue. Similarly, although located in a prominent position on the brow of the hill, the appeal property, being set back from the highway, does not appear prominent within the street scene. The surrounding area is predominantly residential in character and consists of a variety of building styles including detached bungalows and detached and semi-detached two-storey houses, the majority of which are set back from the road.
6. Although the Council accepts the principle of residential development at this site, in view of its prominent location, it is concerned that the scheme proposed would negatively impact on the character and appearance of the surrounding area. These concerns are well founded. It would result in a larger building which would occupy a considerably greater width of the site. Its rear projection would extend further into the site than the existing building and there would be a considerable increase in bulk and scale. This would appear in stark contrast to the more modest dwellings along Birdhill Avenue and the inclusion of a significant area of hardstanding to the front to accommodate the parking area would significantly erode the openness to which the site currently contributes. This would have a detrimental effect on this part of Cressingham Road and on the entrance to Birdhill Avenue.
7. Furthermore, its visibility within the street scene would significantly increase and would be exacerbated by its prominent position on the brow of the hill. Overall, it would appear dominant and out of keeping with its immediate surroundings. This would be harmful to the character and appearance of the surrounding area.
8. While I acknowledge that the site, in view of its sustainable location, would suggest that a higher density development may be appropriate and note that the proposal incorporates hipped roofs to reflect those of nearby dwellings, as well as providing adequate amenity space, that does not overcome the harm to the character and appearance of the surrounding area that I have identified above. Similarly, while I note the appellant's reference to nearby No 45 which occupies almost the entire width of its plot and has the front area given over almost entirely for parking, in view of its less prominent position, I consider its impact on the street scene to be considerably less. Accordingly, it does not act as a justifiable precedent for the development proposed.

9. Consequently, in view of its increased scale, bulk and prominence within the street scene, I find that the proposal would fail to maintain the character and appearance of the area. Furthermore, I consider its layout would be such that it would fail to integrate with, or make a positive contribution to, its surroundings. This would be contrary to Policies CS7 & CS15 of the Core Strategy³ (CS) which seek to ensure that all development is of a high quality design which maintains and enhances the character and appearance of the area.
10. In addition, while I note that the appellant has questioned the relevance of Policy DM11 of the Sites and Detailed Policies Document⁴ (SDPD), that policy seeks to ensure that proposals for new residential development on land which forms part of the curtilage of private residential gardens is only acceptable in a limited number of defined circumstances. These include where its layout integrates with the surrounding area. It is clear from both the wording of that policy and its explanatory text that it is intended to relate to *all* proposals which seek to introduce new residential development within established residential areas. This is to ensure that they do not cause harm to the local area. Consequently, in failing to make a contribution to the character of the area in terms of its layout, I also find the proposal would be contrary to Policy DM11.

Living conditions

11. The scheme would result in the rear building line moving closer to the boundary with No 93 Birdhill Avenue. Policy DM4 seeks to protect the living environment of occupiers of existing residential properties in terms of, amongst other things, privacy and overlooking. It specifies that a back to back distance of 20 metres between dwellings is usually appropriate. However, it also recognises that circumstances on individual sites may enable dwellings to be closer without it having a detrimental effect on privacy.
12. In this case, the separation distance between the rear of the proposed building and the side elevation of No 93 would be around 14 metres. However, the screening along the boundary would considerably limit views into both the property itself and its garden area. Furthermore, there is no indication that there would be clear lines of sight from the rear of the proposed building into habitable rooms of No 93. While I note the Council's concerns that this screening cannot be relied on for the lifetime of the development, I have been provided with no robust evidence as to why this would be the case. As such, I do not consider this to be sufficient to justify a refusal of planning permission in this instance.
13. Consequently, I do not consider the proposed scheme would result in unacceptable levels of overlooking. As such, I find no conflict with CS Policy CS15 or SDPD Policies DM11 & DM4. These policies, amongst other things, seek to ensure that new development does not result in detrimental impacts to the living conditions of occupiers of neighbouring premises.

Protected trees

³ Reading Borough Council Local Development Framework Core Strategy (2008) - with alteration adopted 27 January 2015.

⁴ Reading Borough Council Local Development Framework Sites and Detailed Policies Document (2012).

14. The Council is concerned that there is insufficient information to demonstrate that the protected Scott's Pine located in the south east corner of the appeal site would not be adversely affected by the proposed scheme. I agree with that assessment. The tree is located in reasonably close proximity to the proposed dwelling. While the development plans indicate the retention of that tree as well as protective fencing, without further information indicating the Root Protection Area, I cannot be certain that the measures suggested would provide adequate levels of protection during construction.
15. Accordingly, I find that the proposal does not make adequate provision for protected and retained trees. This would be contrary to CS Policy CS38 which seeks to protect both individual and groups of trees from damage or removal.

Highways

16. The Council's Supplementary Planning Document on Revised Parking Standards and Design (2011) sets required parking standards for new development according to its location. The proposed scheme would fall short of the required standards. Where this is the case, the SPD requires a demonstration that there would be no detriment to highway safety as a result.
17. The Council considers that the lack of parking spaces would place excessive pressure on on-street parking and would be harmful to highway safety. However, I note that there is no robust evidence to suggest that there is any significant shortage of parking in the vicinity or that a shortfall of 4 spaces, 2 of which would be for visitors, would place any significant pressure on the nearby on-street parking provision. Furthermore, I note that there are no parking restrictions along the majority of Birdhill Avenue and consider any impact on on-street parking resulting from the development would be limited.
18. The Council has also raised concerns regarding the proposed bin store. In particular it considers that, being situated some distance from the access point on Cressingham Road, it would lead to the stationing of refuse vehicles on the highway for excessive periods. However, I am not convinced that, even if this were the case, any impact would be so severe as to warrant a refusal of planning permission in this instance. Rather, I consider any concerns in this respect can be sufficiently guarded against by means of an appropriate condition.
19. Consequently, I find that although the level of parking provision proposed would not accord with the Council's adopted standards, the proposed shortfall would not have any material impact on on-street parking in the surrounding area. Accordingly, I do not consider it would be detrimental to highway safety. Likewise, I find that the Council's concerns regarding the facilities for waste collection and storage would not materially impact on highway safety. As such, I find no conflict with CS Policy CS20 or SDPD Policy DM12 which seek to ensure that new development contributes to a balanced transport network and does not adversely affect the safety of highway users.

Affordable housing

20. Policy DM6 of the SDPD and the Council's Supplementary Planning Document on affordable housing⁵ require a financial contribution to be provided towards affordable housing elsewhere in the Borough. The appellant has not provided a

⁵ (2013)

signed planning obligation to secure the contribution and, as such, the proposal does not accord with Policy DM6.

21. However, following the Court of Appeal's judgement on 13 May 2016⁶, the Written Ministerial Statement of 28 November 2015 has been reinstated and once again forms a part of national planning policy. It indicates that contributions should not be sought from developments of 10 units or less and it is a material consideration to which I attach significant weight.
22. Nevertheless, the Council has submitted a considerable amount of evidence which indicates that specific local circumstances within the Borough justifies a lower threshold for affordable housing contributions, as an exception to national policy. I have been referred to a recent Appeal Decision⁷ where the Inspector considered that balancing the importance of avoiding disproportionate burdens on the developer was outweighed by the specific affordable housing needs in Reading, rising market values, and the significant contribution towards the delivery of affordable housing in the Borough that small sites make. While I am not aware of the level of detail submitted in that case, on the evidence before me, I find the Council's case to be persuasive.
23. Furthermore, in view of the fact that the appellant has not disputed the Council's evidence and has provided nothing substantive to indicate that a contribution towards affordable housing would represent a disproportionate burden to them, I consider there to be local circumstances that indicate the proposal should be determined in line with the development plan. A means of securing a contribution towards affordable housing can therefore be justifiably sought in this instance.
24. Consequently, in the absence of any secured contribution, I find that the proposal would be contrary to Policy DM6 of the SDPD and the SPD.

Planning Balance

25. I have found that the proposal would not be materially harmful to the living conditions of occupiers of No 93 Birdhill Avenue and would not be detrimental to highway safety. Nevertheless, I have also found that it would be harmful to the character and appearance of the surrounding area and would fail to make adequate provision for protected and retained trees. Furthermore, it fails to secure a contribution towards affordable housing. As such, it would be contrary to a number of development plan policies.

Conclusion

26. For the reasons set out above, I conclude that the appeal should be dismissed.

Rory Cridland

INSPECTOR

⁶ Secretary of State for Communities and Local Government v. West Berkshire District Council and others [2016] EWCA Civ 441

⁷ Ref: APP/E0345/W/16/3153661