
Appeal Decision

Site visit made on 2 December 2019

by Richard Schofield BA(Hons) MA MRTPI

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

Decision date: 11th December 2019

Appeal Ref: APP/E0345/W/19/3235352
96 Bath Road, Reading RG30 2EU

- 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 Mr S Gupta against the decision of Reading Borough Council.
 - The application Ref 181796, dated 20 September 2018, was refused by notice dated 14 June 2019.
 - The development proposed is demolition of existing dwelling and the erection of a block of 8 flats together with parking, cycle store and bin store.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was lodged, the Reading Local Plan (the Local Plan) has been adopted, superseding the Core Strategy and the Site and Detailed Policies Document (which were referred to in the Council's Decision Notice).
3. The parties were given the opportunity to comment upon the implications of this, if any, for their cases but no responses were received. Notwithstanding this, the content of the relevant Local Plan policies reflects that of the superseded documents in any case.
4. As the Local Plan now forms the development plan for the area, I have determined the appeal in accordance with it.

Main Issues

5. Although not addressed in the Council's reasons for refusal, local residents raised a number of concerns in relation to the impact of the appeal proposal upon their living conditions. On the basis of all that I have read and seen I consider these concerns to be well-founded. Thus, the main issues are:
 - The effect of the proposed development on the character and appearance of the area;
 - Whether the proposed development would provide adequate outdoor amenity space for use by future occupiers;
 - Whether the proposed development would provide suitable living conditions for future occupiers, with particular regard to space, outlook and light;

- The effect of the proposed development on the living conditions of the occupiers of neighbouring dwellings, with particular regard to outlook, privacy, light, noise/disturbance and fumes;
- The effect of the proposed development on protected species;
- The effect of the proposed development on highway safety and efficiency; and
- Whether the proposed development makes appropriate provision for affordable housing.

Reasons

Character and Appearance

6. The appeal site is a large plot, containing a bungalow with a substantial rear garden. The bungalow has generous separation distances between it and the boundaries with neighbouring dwellings.
7. Bath Road at this point has no definitive character; the area contains a variety of dwelling types and forms. Nonetheless, the bungalow is one of a short run of similar dwellings facing Bath Road, which form a distinctive group. The combination of their (lack of) height, spacing, and deep rear gardens, with the presence of mature trees, contributes, *en masse*, to the spacious character of the road at this point.
8. Burrcroft Court, to the immediate west of the appeal site, has a substantial amount of open space within it, adjacent to the appeal site, which, in combination with the substantial rear gardens of the bungalows, serves to give this area a quiet, verdant character, distinct from the busy road at the front.
9. Burrcroft Court also steps down to single storey units to the west and to the north of the appeal site, providing a sympathetic transition between it and the run of bungalows. The two-storey section provides a 'book ending' on the corner of Bath Road and Burrcroft Road.
10. The sheer scale of the appeal scheme would be markedly at odds with this immediate context. The proposed building would be substantially taller, wider and deeper than its immediate neighbours, appearing incongruous and domineering in relation to them.
11. In addition, the introduction of a substantial area of car parking to the rear would be completely out of place in the environs of domestic gardens. Such a use would compromise severely the characteristic calm, green setting to the neighbouring dwellings and the verdant appearance of the area.
12. I conclude, therefore, that the appeal proposal would have an adverse impact upon the character and appearance of the area. It would conflict with Local Plan policy CC7, which requires all development to be of a high quality design that maintains and enhances the character and appearance of the area.
13. It would also conflict with Local Plan policy H11, which requires that development of private residential gardens makes a positive contribution to the character of the area.

Open space

14. I have, above, addressed the issue of the significant reduction in rear garden size, and its replacement with car parking, upon character and appearance.
15. Turning to functionality, it is not entirely clear whether the amount of on-site open space to be provided would meet the requirements of now superseded planning policy. Even assuming that it would, however, its usability is questionable.
16. The small communal space at the front of the building would be close to the busy Bath Road, and to the bins, and would be completely overlooked by pedestrians. Of that at the rear, the thin strip between the parking area and Burrcroft Court would be of little practical use other than for landscaping. The rest would be compromised by vehicles manoeuvring immediately next to it, making it an unappealing space for relaxing and/or playing.
17. The scheme would, therefore, fail to provide adequate outdoor amenity space for use by future occupiers. It would conflict with policy H10 of the Local Plan. This requires dwellings, including flats, to be provided with functional private or communal open space that allows for suitable sitting-out areas, children's play areas, home food production, green waste composting, refuse storage, general outdoor storage and drying space.
18. I note that Prospect Park is very close by. This could satisfy the requirements of some future residents, in so far as outdoor play or exercise is concerned. It would not, however, be convenient, for example, for the elderly and/or infirm or for small children who may wish to play close to home in view of their parents.

Living conditions (future occupiers)

19. The concerns of the Council, with respect to light, relate to specific bedrooms, which I address in turn.
20. Bedroom two of the southeast flat, on the first floor, would be served only by two skylight windows. Bedroom two of the southeast ground floor flat would have only a narrow, high level window. They would, thus, have no outlook of which to speak.
21. It is possible that a lack of daylight into the first floor bedroom would not be an issue but this would certainly not be the case with the ground floor bedroom, which would likely be dim given its position and orientation. Both rooms, which are small to begin with, would be oppressive and unattractive places in which to spend time.
22. Bedroom one of the southwest first floor flat has a full height window, but it is narrow and is positioned awkwardly in the corner of the room. Ingress of light would be very limited and outlook would be restricted. Again, I consider that it would not be conducive to the creation of a space in which one would wish to spend time.
23. In addition, it is not clear how functional the upper floor of this unit would be. The shape of the roof, and the space taken up by the spiral stairs, could well limit the amount of usable space available to future occupiers.

24. Although not noted in the reasons for refusal, the Officer's report and the Council's Statement of Case both note that it appears that not all of the proposed bedrooms meet the national space standards, required under Local Plan policy H5. This does not seem to be disputed by the appellant.
25. I conclude that the appeal scheme would fail to provide adequate living conditions for future occupiers, with regard to light, outlook and space. It would conflict with Local Plan policy H5, which requires, among other things, that new residential development outside the Central Area must comply with the nationally-described space standards.
26. It would also conflict with Local Plan policy CC8, which seeks to ensure that new residential development does not deliver unacceptable living conditions with regard to, among other things, daylight/sunlight and outlook.

Living conditions (neighbouring residents)

27. Parking spaces for the flats would all be located to the rear of the proposed building, in what is currently the rear garden of the dwelling. To access these spaces, vehicles would use a driveway that would run directly along almost the entire boundary with No 94, passing very close to its western elevation and directly beside its rear garden.
28. The spaces themselves would be situated against the boundary with No 32 Burrcroft Court, the side elevation of which is almost directly behind the boundary fence. The communal garden to Burrcroft Court abuts the western boundary of the appeal site.
29. The location of parking spaces, and a lengthy access drive, in a rear garden area in this context would be entirely inappropriate, marking a fundamental intrusion into what is currently a quiet, green area.
30. The noise and general disturbance associated with the ingress, egress and parking of vehicles, as well as the exhaust fumes emanating from them, could not fail to have a detrimental impact upon the neighbours' enjoyment of their rear gardens; areas where they can (and as was apparent from my site visit, evidently do) reasonably expect to spend time relaxing quietly.
31. It is also likely that the noises arising would have an adverse impact upon residents when inside their dwellings, notably in the summer months when one could reasonably expect windows and doors to be open. Indeed, it was evident from my site visit that No 94 has windows, and a door with glass panels, to what appeared to be a kitchen, past which vehicles would travel in very close proximity.
32. In addition, the front elevation of No 32, although at right angles to the spaces, would be close to them such that it too would likely be affected by noise and fumes.
33. Acoustic fencing is indicated at a point on the boundary with No 94, albeit that it is not entirely clear what its extent would be. It is possible that this could mitigate noise to some degree, but it would have little effect upon exhaust fumes. I do not consider, however, that it could be entirely effective given the very close proximity of the driveway and spaces to neighbouring dwellings and their gardens, and the currently quiet character of the rear of the dwellings in question.

34. Indeed, the fact that it is proposed at all is an implicit acknowledgement of the adverse impacts of the scheme upon its immediate environment; an impact for which there is little, if any, need.
35. The appellant has submitted a Daylight and Sunlight Report. This concludes that the windows in the western elevation of No 94 would retain at least 80% of their VSC value when assessed against the annual and winter probable sunlight. The report was produced in August 2018.
36. It states clearly, however, that the location of No 94's windows is "*indicative*" and it appears to miss out the glass panelled door in the side elevation. It is also far from clear what the 3D models are purporting to show in terms of shadow fall.
37. Notwithstanding this, it was readily apparent from my December site visit, which was undertaken between around 1230 and 1300 on a sunny day, that the height of the proposed building would have an adverse impact upon sunlight to No 94, both to the windows and to part of the rear garden, at least during the winter months when the sun remains low in the sky. The shadow fall would be much deeper than that shown in the 3D models set out in the report.
38. Again, this would compromise the enjoyment of the garden, much of which was in sun at the time of my visit, with only a small proportion shaded by the extant dwelling at No 96. It would also, in my judgement, be noticeable to users of the kitchen at No 94.
39. Even if that were not the case, and one were to take the modelling at face value, the fact that the outlook from these side windows, and from the garden nearest the rear elevation of No 94, would change from one that is reasonably open, to one that would be dominated by an almost featureless two-storey brick elevation, would be reason of itself to find harm to the living conditions of the occupiers of No 94.
40. Similarly, the blank, two storey western elevation of the proposed dwelling would extend, very close to the boundary, alongside the garden area to No 1 Burrcroft Court. Again, an area with what is currently a relatively open outlook would be compromised by the domineering presence of the appeal building, which would also be intrusive in views from the front elevation of No 1.
41. I turn finally to the issue of privacy. The rear elevation of the proposed building would have a number of windows in its rear elevation, to bedrooms and to living areas, the majority with Juliet balconies. There would be clear views from these windows into the rear garden of No 94 and over the gardens of Burrcroft Court.
42. The gardens at Burrcroft Court are communal, and are overlooked by a number of flats, such that additional overlooking from the appeal site would not be a significant issue.
43. The same could not be said of impacts upon the rear garden of No 94, which currently enjoys a strong sense of privacy thanks to the single storey dwellings either side. Views from the proposed building would be oblique, but they would nonetheless afford sight of much of the lower end of No 94's garden, where there is clearly a seating area. This loss of privacy would be a marked, and uncomfortable, contrast to the current situation. It would have an adverse impact upon the enjoyment of the rear garden by the occupiers of No 94.

44. I conclude that the appeal proposal would have an adverse impact upon the living conditions of the occupiers of neighbouring dwellings with regard to light, privacy, noise, fumes and outlook. It would conflict with Local Plan policies CC8 and H11. These seek, among other things, to safeguard the amenity of the occupiers of neighbouring and nearby dwellings.

Protected Species

45. A Preliminary Roost Assessment for bats and birds has been submitted by the appellant. This recommends that, *"a further dusk survey [for bats] is carried out to determine the next steps for the proposed works"*, to determine roost type(s), confirm species and numbers, and to inform the mitigation strategy for them.
46. In other words, there is no definitive conclusion in relation to the presence or otherwise of bats within the dwelling, given the observation that there are potential access points and crevice spaces in the roof space of the extant dwelling.
47. In the absence of the additional survey work, it is clearly not possible to come to a view on the extent to which protected species may be present and how any impacts upon them might be mitigated. Not least as there can be no certainty that any mitigation required could be addressed by the appeal scheme, given that the proposed design does not currently include such.
48. In this context a precautionary approach is entirely appropriate, in line with the requirements of ODPM Circular 06/2005, which is clear that:

"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted".

49. There are no exceptional circumstances in this case to warrant leaving the additional survey to be conditioned.
50. I also note that the findings of the Preliminary Roost Assessment are stated as being valid for only 12 months. As such, given that the Assessment was signed off in July 2018, it is already out of date.
51. I conclude, therefore, that there can be no certainty that the appeal proposal would not have an adverse impact upon a protected species. It would conflict with Policy EN12 of the Local Plan, which seeks to protect features of biodiversity interest.

Highway Safety and Efficiency

52. Policy TR5 of the Local Plan requires that:

"Development should provide car parking and cycle parking that is appropriate to the accessibility of locations within the Borough to sustainable transport facilities, particularly public transport".

53. Guidance on how what is “*appropriate*” may be determined is set out in the Council’s Revised Parking Standards and Design Supplementary Planning Document (SPD). This indicates that the appeal scheme, given its location, should provide 14 parking spaces, including visitor spaces. 10 are proposed. This is some way below the number required.
54. The SPD zones the Borough, taking account of the different levels of facilities and public transport in different areas, as well considering local car ownership levels, to inform residential parking standards. Thus, the SPD has already had regard, albeit in broad terms, to the factors that the appellant advances as mitigating circumstances to justify the reduced parking provision. It appears to be a thorough and considered document and its validity is not in dispute.
55. In this context, it is reasonable to consider that under provision of parking spaces could well lead to pressure upon on-street parking on nearby streets (Bath Road excluded, due to its parking restrictions). The appellant does not dispute the Council’s position that the area is already heavily congested in this regard.
56. There is also a realistic possibility that the lack of adequate numbers of parking spaces could lead to unnecessary, and potentially hazardous, to-ing and fro-ing by vehicles entering the site, finding nowhere to park and having to reverse back out¹.
57. I am also mindful that the proposed spaces do not appear to conform to industry standard recommended dimensions. No evidence is adduced by the appellant to counter the measurements provided by the Council.
58. Reference is made to Manual for Streets as the basis for the Council’s allegations of insufficient driveway width. The sections of the Manual referred to, however, concern the public highway not private driveways. While the Council’s concerns are not unfounded, it seems to me in this particular instance that, given the depth of the pavement (which affords good visibility and brings a car off the highway), and the width of the space available immediately within the site, beside the visitor parking spaces, that there is sufficient scope to allow two cars to pass in the event that they met at the access point.
59. Nonetheless, having regard to the inadequate parking provision, I conclude that the appeal scheme would have an adverse impact upon highway safety and efficiency. It would conflict with Local Plan policy TR5, and with the SPD, the requirements of which are set out above.

Affordable Housing

60. There is dispute between the parties over whether the scheme could provide a suitable amount of affordable housing. This is, however, moot. The appellant’s Statement notes that they are:

“prepared to provide one unit for shared ownership ... This one unit will be secured through a unilateral undertaking which is to be provided as part of this appeal”.

¹ The swept path diagrams provided by the appellant in the Transport Statement all assume that at least one parking space is vacant, allowing a vehicle to turn.

61. No obligation is before me and, as such, there is no appropriate means available to secure the indicated provision, even if it was found to be proportionate.
62. Had I been minded to allow the appeal, I would have pursued this matter. As I am dismissing for a range of reasons, however, I do not address it further.
63. I conclude, therefore, that the appeal proposal fails to make appropriate provision for affordable housing. It would conflict with Local Plan policy H3, which requires all residential development to make an appropriate contribution towards affordable housing.

Other Matters

64. There is no dispute that the site is in a highly sustainable location and would be brownfield development. That does not mean, however, that anything goes. New development should still be appropriate to its surroundings.
65. The National Planning Policy Framework (the Framework) seeks to boost significantly the supply of housing. This is not its be all and end all. Considerable emphasis is also placed upon the plan led system and upon high quality design. In this case, there is an up-to-date development plan in place. The appeal proposal would conflict with a range of relevant policies and would not represent the standard of development sought by the Framework.

Conclusion

66. For the reasons given above, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Richard Schofield

INSPECTOR