
Appeal Decision

Hearing Held on 19 November 2019

Site visit made on 20 November 2019

by Mike Hayden BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th December 2019

Appeal Ref: APP/E0345/W/19/3220213

Land adjacent to Thorpe House, Colliers Way, Reading RG30 2QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Thames Valley Retirement Homes Ltd against the decision of Reading Borough Council.
 - The application Ref 180849, dated 23 May 2018, was refused by notice dated 20 July 2018.
 - The development proposed is residential development to provide a maximum of 14 dwelling units and demolition of dwelling at 16 Kirton Close to provide access.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with matters relating to layout, scale, appearance and landscaping reserved for subsequent approval. Access was the only detailed matter fixed for determination as part of the appeal. The plans submitted with the appeal included a proposed site layout, front elevation and illustrative sketch¹. It was confirmed at the hearing that these are indicative, to serve as a guide for how the proposed development could be accommodated on site, with the details subject to reserved matters. I have dealt with the appeal and treated the submitted plans on this basis.
3. The description of the proposed development in the decision notice and appeal form differ from that used in the application form, to include the demolition of the dwelling at 16 Kirton Close to provide access. I have used this fuller description in the banner heading above as it more accurately describes the appeal proposal.
4. The Council adopted the Reading Borough Local Plan (RBLP) on 4 November 2019. This replaced the policies in the Reading Borough LDF Core Strategy (2008 altered in 2015) and the Sites and Detailed Policies Document (2012) referred to in the decision notice, which are no longer relevant to this appeal. The statement of common ground (SoCG) identified the policies of the RBLP that are now relevant. At the hearing the Council confirmed which of those policies replaced the superseded policies referred to in the decision notice. Accordingly, I have determined the appeal in the light of the policies of the RBLP.

¹ Drawing nos: SK-101E, SK-400C and PL-700

5. A unilateral undertaking under S106 of the Town and Country Planning Act 1990 was submitted by the appellant. The undertaking comprises planning obligations to secure financial contributions towards off-site affordable housing, skills training and carbon off-setting. It was signed as a deed by the appellant as the landowner and constitutes a material consideration, which I have taken into account in reaching my decision.

Main Issues

6. The application the subject of this appeal was refused for 9 reasons. The SoCG confirms that the Council's objections to the proposal on the grounds of risk to highway safety (reason 4), loss of protected trees (reason 5), and the lack of contributions towards affordable housing and skills training (reasons 8 and 9) were overcome by the submission of revised plans and the S106 undertaking, which were discussed at the hearing. Nevertheless, with regard to highway safety, significant concerns were still expressed by local residents at the hearing.
7. Accordingly, on the basis of the outstanding reasons for refusal and all that I have read, heard and seen, I consider that the main issues in this case are:
 - The effect of the proposed development on the character and appearance of the surrounding area, with particular regard to the potential loss of open space; the indicative scale, design and layout of the proposed development in relation to the surrounding streets and buildings; and the street scene in Kirton Close.
 - The effect of the proposal on the living conditions of occupiers of neighbouring properties, with particular regard to privacy, outlook and disturbance;
 - Whether the proposal would provide acceptable living conditions for future occupiers of the development, with particular regard to outlook, daylight/sunlight and private outdoor amenity space; and
 - The effect of the proposed development on highway safety.

Reasons

Character and Appearance

8. The appeal site is located on the northern edge of a mid to late 20th century housing estate in west Reading. The site is composed of two parts. The main section is an irregular shaped parcel of open land, containing grassed areas, bramble, scrub and a number of mature trees. It adjoins a public footpath linking the residential streets in the estate including Colliers Way and Windrush Way and a group of four cul-de-sacs to the south-west, Verney Mews, Kirton Close, Appleby End and Ibstock Close. The other element of the site is the curtilage of 16 Kirton Close and a short section of footpath adjacent to it, which connects Kirton Close with the main public footpath.
9. The appeal site was formerly part of a quarry and brickworks, located between Waverley Road to the north and Water Road to the south, which was developed for housing in the 1970s. The open land on the main part of the site appears to have been retained or left over as open space and amenity land adjacent to the public footpath and continuous with the open space which surrounds Thorpe

House to the west of the site and at the end of Colliers Way. An embankment at the rear of the site along its north-eastern boundary is the last remaining evidence of the former quarry side. However, no structures associated with the previous use remain. According to the glossary in Annex 2 of the Framework, therefore, the open space and amenity land does not comprise 'previously developed land'.

10. The western half of the open space/amenity land is currently enclosed by timber hoardings, erected by the appellant to prevent fly tipping and other misuse. Whilst evidence that the land has been the source of other forms of anti-social behaviour is inconclusive, photographs provided by the appellant, dated October 2012, show that the site has been subject to dumping of rubbish and household items. This is supported by a 'litter clearing notice' served by the Council in December 2012, which correspondence shows the landowner acted upon.
11. However, photographs provided by the Council, dated August 2016, and some found in the submitted Design and Access Statement, which were taken before the hoardings were erected, show the site in good condition, with the bramble and scrub contained to the rear section and the grass mown, providing an attractive visual amenity adjacent to Thorpe House and the public footpath, and a space for informal recreational use for local residents. Although the hoardings currently restrict the enjoyment of this amenity and have a narrowing effect on the footpath at this point, it is evident that in a well maintained condition, without the fencing in place, the site offers a valuable piece of open space and amenity land for the estate. However, even in its current condition, the openness of site above the fencing and the backdrop of mature trees still make an important contribution to the character of the area.
12. Policy EN8 of the RBLP establishes a presumption in favour of retaining undesignated open space. It states that development should not result in the loss of or jeopardise the use and enjoyment of such open space, unless it is replaced nearby or improvements are made to recreational facilities on the remaining open space to outweigh the loss. This is in line with expectations of paragraph 97 of the Framework for the protection of open space. Although the site is in private ownership, the supporting text to Policy EN8 is clear that the policy relates to both publicly and privately owned open space in the borough. The definition of open space in the glossary to the Framework does not limit it to land in public ownership, but all open space of public value. The Planning Practice Guidance (PPG) confirms that open space can take many forms, including open areas within a development². The appeal site is clearly an area of open space within the estate, whether by design or as left over space. It matches the description of the type of undesignated open space which Policy EN8 is intended to protect. Therefore, Policy EN8 is relevant in this case.
13. Although scale, layout and appearance are reserved matters in this appeal, the appellant confirmed at the hearing that the indicative plans could be relied upon to illustrate the layout, spacing, height, massing, footprint and volume of buildings required to accommodate the proposed quantum of development on the site. From these plans, it is evident that the development would take up the majority of the open space on the main western half of the site. Whilst most of the mature trees along the rear embankment would be retained and be seen above the roof tops of the proposed dwellings, the openness of the site

² PPG Paragraph: 001 Reference ID: 37-001-20140306

would be lost and the visual amenity it provides as a backdrop to the surrounding residential development. Even in its current fenced off condition, the loss of openness and space would be harmful. Although the proposal would improve the landscape and appearance of the eastern leg of site along the public footpath, the principal contribution of the open space on the western part of the site to the amenity of the estate and the character of the surrounding area would be lost. The enhancement of the eastern section would not outweigh this loss. As such the proposal would be contrary to Policy EN8 of the RBLP and would conflict with paragraph 97 of the Framework.

14. With regard to the scale, design and layout of the proposed development, the surrounding streets within the estate are characterised by a mixture of single storey and 2 storey dwellings. The two storey units are grouped in terraced blocks of 6 or more properties, with staggered building lines. Based on the indicative plans, the form and layout of the proposed buildings would be broadly consistent with this. However, the appellant acknowledged that it may be necessary to place rooms in the roof space to accommodate the number of units proposed and comply with the nationally described space standards, which is required by Policy H5 of the RBLP. If this were the case, it would be likely to require windows in the roof, creating 3 floors of development. Whilst the layout, scale and appearance of the proposal would be subject to reserved matters applications, the proposal seeks approval for up to 14 units. There is insufficient evidence to show that the proposed number of units could be accommodated on two floors of development or within the footprint of the proposed buildings. In these circumstances, the parties agreed it would be unreasonable to apply a condition limiting the development to 2 storeys.
15. Three floors of development with windows in the roof would create a visually dominant building form, even if outlook were limited to the rear. This would be out of keeping with and therefore harmful to the more modest 2 storey character and scale of the area. In particular, it would have an overbearing relationship with the bungalows at the heads of the cul-de-sacs to the south. If a larger footprint were necessary to provide the amount of accommodation sought, this would take up more of the site, reducing the space around the buildings and leading to an even more cramped development on what is already a constrained site. Policy CC7 of the RBLP seeks to ensure that developments respond to their local context and reinforce local character and distinctiveness, in line with paragraph 127(c) of the Framework. On the basis of the evidence before me, the appeal proposal would fail to achieve this.
16. The proposal also involves the removal of the bungalow at 16 Kirton Close to create the vehicular access to the scheme. No. 16 is one of a group of flat roofed bungalows at the end of Kirton Close, which are a distinctive feature in the estate, also found in Appleby End and Verney Mews. They frame the ends of the cul-de-sacs, allowing views out to the spaces and trees beyond, but create a unique and pleasing end stop to the vista in each close, contributing to their small scale and intimate character and appearance. No. 16 in particular, as the central one of three bungalows across the end of the Kirton Close, neatly terminates the view at the head of the cul-de-sac.
17. The proposed development would create a new end stop to the vista along Kirton Close. However, it would remove the unique sense of enclosure created by the bungalow, replacing it with a two or three storey building, set further back behind the access and car parking to one side. The result would be a loss

of the continuity of the architecture and intimate character of the cul-de-sac, which would cause unacceptable harm to the street scene in Kirton Close. Policy CC7 expects development to make a positive contribution to continuity and enclosure in urban design, which this scheme would not do. I acknowledge that paragraph 127(c) of the Framework seeks not to discourage innovation and change. But in this case, the change proposed would not be sympathetic with local character, which the Framework also seeks.

18. Overall, therefore, for the reasons explained above, I conclude that the proposed development would cause an unacceptable degree of harm to the character and appearance of the surrounding area. It would conflict with Policies EN8 and CC7 of the RBLP and be contrary to paragraphs 97 and 127 of the Framework.

Living Conditions

Neighbouring Properties

19. Based on the layout shown on the indicative plans, the front elevations of the proposed dwellings would be between 12-25 metres (m) from the rear facing elevations of the bungalows at the end of Verney Mews and Kirton Close. Policy CC8 of the RBLP seeks to ensure development does not cause harm to the living environment of existing properties, in terms of privacy, overlooking and visual dominance, amongst other things. It confirms that a back to back separation distance of around 20m is generally appropriate to prevent overlooking between residential properties. The same distance would apply to a front to back relationship between habitable room windows.
20. At the eastern end of the scheme, the proposed dwellings are set forward where the width of the site starts to reduce. At this point they would be little more than 12m from the side and rear walls of 12 Verney Mews, which contain the main ground floor habitable room windows to the property. Whilst the design of the fenestration and the internal layout of the proposed development would be determined at the reserved matters stage, the appellant confirmed at the hearing that the units would be designed with their principal aspect facing the south. Indeed, given that the rear elevation would be north facing and there is a dense tree canopy to the east, the front elevation would be the only opportunity to capture sunlight into the proposed units.
21. It was suggested that oriel windows could be installed at the front, but in the absence of details of their design and orientation, I am not persuaded this would avoid overlooking of no. 12, given its position relative to the front elevation of the proposed building. The height of the rear boundary wall to no. 12 would not prevent overlooking of its rear facing windows and private back garden area from the upper floor windows of the proposed development. The occupiers of no. 12 would therefore experience an unacceptable loss of privacy. The height of the proposed buildings at up to 10m to the ridge, on the other side of the footpath, within 12-13m of the side and rear facing windows of no. 12 would also have an unduly overbearing impact on the outlook enjoyed by the occupiers of no. 12.
22. With regard to the bungalow at 17 Kirton Close, its rear facing habitable room windows and private garden area would be between 20-26m from the front façade of the proposed development. 15 Kirton Close has no windows in its side elevation looking towards the proposed development and would be around 25m away. Although there may be an increased perception of overlooking from

the upper floor windows of the proposed dwellings, the separation distances for nos. 15 and 17 would be adequate to ensure no actual overlooking and therefore no unacceptable loss of privacy. At its western end, the proposed building would be set back further to create space for the parking court, so limiting its impact on the outlook from nos. 15 and 17. The back to back separation distance between the appeal scheme the houses in Waverley Road would be approximately 30m, so would not result in a loss of privacy.

23. The western facing side wall of the proposed development would be between 13-20m from the eastern elevation of Thorpe House, which contains a number of windows to habitable rooms. Given this is a secondary elevation for the proposed scheme, it would be possible to attach conditions to prevent overlooking either by requiring no windows or obscured glazing on this flank. However, the outlook for the occupiers of the flats from the easternmost gable end of Thorpe House would be directly onto the parking courtyard of the proposed development, which would be around 2.5m away. The indicative layout shows a group of 9 parking spaces adjacent to this boundary of the site. The predicted number of vehicle movements to and from the proposed development would be modest throughout the day. But, the concentration of vehicle turning movements within this part of the site directly outside the habitable room windows of the flats in Thorpe House, compared to the current traffic free environment on site, would result in an unacceptable increase in disturbance from vehicle noise for occupiers at the eastern end of Thorpe House. The use of fencing on the boundary may screen the effect of car lights, but it would have limited effect on vehicle noise. Policy CC8 also seeks to avoid harm to the living environment of existing occupiers in terms of noise and disturbance. The proposal would be contrary to this in respect of Thorpe House.
24. 16 Kirton Close would be replaced by the vehicular access into the site and a row of 5 parking spaces. This would increase the number of vehicle movements and noise to the front of nos. 15 and 17 and for the occupiers of other properties in Kirton Close. However, the turning head at the end of the cul-de-sac is already used for parking, with vehicles manoeuvring at this point. The change in the level of vehicular activity in Kirton Close would not lead to an unacceptable level of noise and disturbance for existing occupiers in the street, particularly given that the main aspect from habitable room windows for most dwellings in Kirton Close is to the rear.

Proposed Development

25. Policy H10 of the RBLP expects new dwellings to be provided with functional private or communal outdoor space. As a guide the supporting text seeks a minimum provision of 25 square metres (sqm) of outdoor space for 1 and 2 bedroom flats, requiring 350sqm in total for the proposed scheme. The appellant confirmed the area to the rear of the dwellings to the bottom of the embankment would comprise around 250sqm. The balance would rely on some of the land to the east of the proposed building being enclosed within the communal garden space. However, this would further harm the open space and public amenity value of the land. In addition, much of the space to the rear and side of the proposed building would be overshadowed by trees or the building itself, compromising its functionality and attractiveness as outdoor space for the range of uses set out in Policy H10. The limited depth of the space to the rear would also provide little opportunity to ensure privacy for ground floor units with habitable room windows facing the rear in a communal garden. On this basis,

the quantity and quality of the proposed outdoor space would be inadequate and fail to meet the minimum requirements sought by Policy H10.

26. With regard to sunlight and daylight, whilst the rear elevation of the proposed development would be in shadow for much of the day, the appellant confirmed the units could be dual aspect to maximise natural light and sunlight from windows in the south facing front elevation. This is a matter that could be required by condition. I have not been provided with a technical assessment of the extent which the proposed development would fail to accord with the BRE guidelines for daylight and sunlight. Accordingly, there is insufficient evidence to demonstrate the proposal would conflict with Policy CC8 in terms of access to daylight and sunlight.
27. Overall, however, I conclude that the proposed development would cause unacceptable harm to the living conditions of the occupiers of 12 Verney Mews, with regard to loss of privacy and an overbearing outlook, and for the occupiers of Thorpe House with regard to noise and disturbance. I also find that it would result in unacceptable living conditions for future occupiers of the proposed development, in terms of its inadequate communal outdoor space. As such the proposal would be contrary to Policies CC8 and H10. It would also fail to achieve the high standard of amenity for existing and future occupiers sought by paragraph 127 of the Framework.

Highway Safety

28. The proposed access to the appeal site would cross the public footpath leading through the estate. The footpath connects to Waverley Road to the north and Water Road to the south, and I was advised that it is used by local residents and children accessing 6 schools in the area as well as other local facilities. The proposed development would generate an estimated 51 vehicle movements a day. Therefore, there would be the potential for conflict between vehicles entering and leaving the site and pedestrians and cyclists using the footpath.
29. To avoid and mitigate this, the revised plan³ submitted during the appeal shows the access would be designed with a raised crossing giving priority to pedestrians and cyclists and to slow vehicles down. Bollards along the edge of the carriageway and footpath would also offer protection to pedestrians and cyclists from impact. The SoCG confirms this design has been agreed by the highway authority and that this overcomes the fourth reason for refusal in the decision notice which stated there would be an increased of accidents to users of the footpath. Although visibility for vehicles entering the site would be affected by cars parked on the side of the access road next to the footpath, I am satisfied that the priority crossing would control vehicle speeds and minimise the risk of accidents.
30. Paragraph 109 of the Framework states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. Policy TR3 of the RBLP permits development where the proposals would not be detrimental to the safety of users of the transport network, including pedestrians and cyclists. The technical evidence and the views of the statutory highway authority confirm that the impact of the new access on the safety of users of the footpath would be acceptable.

³ PBA Plan 45057/5501/SK005 Rev A

31. Concerns have also been expressed about the effect of increased traffic on the operation and safety of the highway in Kirton Close, particularly given the tightness of the cul-de-sac and the absence of footpaths within it. However, the width of the street and presence of parked cars already acts to naturally traffic calm the close. There is little evidence to demonstrate that the increase in traffic from 13 additional dwellings would have a severe impact on vehicle movement or an unacceptable effect on highway safety within Kirton Close.
32. On this basis, I conclude that the proposed development would not cause unacceptable harm to highway safety or the operation of the road network. As such it would comply with Policy TR3 of the RBLP and accord with paragraph 109 of the Framework.

Other Matters

33. With regard to the loss of protected trees, the indicative layout plan shows the removal of two trees in the north west corner of the site. However, it was confirmed at the hearing that only the Sycamore (T2) would require felling due to its poor condition. I am satisfied that the loss of the Sycamore would not have a significant impact on amenity and that the remaining trees on site could be protected by condition. Therefore, this matter does not add to the weight against the proposal.
34. The appeal scheme would contribute 13 additional dwellings to the supply of housing in Reading. Via the S106 undertaking, it would also provide a financial contribution of £220,650 in substitution for the provision of four affordable housing units on site, in accordance with Policy H3 of the RBLP. These are benefits arising from the proposal which must be weighed in the planning balance.
35. However, the Council has in excess of a 5-year supply of deliverable sites against the housing requirement in the RBLP. That supply does not rely on windfall sites of 10 or more dwellings and therefore the appeal site is not required to meet the borough's objectively assessed housing requirements. The government's objective in paragraph 59 of the Framework remains to significantly boost the supply of housing. Therefore, providing additional market and affordable housing above the minimum requirement attracts weight in favour of the proposal. But given the limited number of units and the current surplus in the housing land supply in the borough, the scheme's housing contribution does not outweigh the harm it would cause to the character and appearance of the area and to living conditions which I have identified.
36. The S106 undertaking also provides for financial contributions towards skills training and carbon off-setting. However, these planning obligations would serve to mitigate the impact of the proposed development on labour and skills and on climate change in accordance with Policy CC9 and Policy H5 of the RBLP. Accordingly, they carry neutral weight in the planning balance.

Conclusion

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

M Hayden

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mark Berry	Director	JSA Planning
Phil Brady	Director	Peter Brett Associates
John Wollenberg	Director	Thames Valley Retirement Ltd
Andrew Anderson		Thames Valley Retirement Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Ethne Humphreys	Senior Planning Officer	Reading Borough Council (RBC)
Steve Vigar	Principal Planning Officer	RBC
Darran Cook	Transport DC Manager	RBC

INTERESTED PARTIES:

Jo Lovelock	Ward Councillor	RBC
Mrs Fortnum	Resident	8 Kirton Close
Janice Scruby	Resident	Kirton Close
Margaret Baker	Resident	Appleby End
Mrs Maria Eke	Resident	Appleby End
Mrs Larter	Resident	15 Kirton Close
Jean Arnott	Resident	16 Appleby End
Mr McClutton	Resident	Coley Place

DOCUMENTS SUBMITTED DURING AND AFTER THE HEARING

- 1 – Sustainability Statement, submitted by the appellant, dated November 2019.
- 2 – Photographs of the appeal site, submitted by the Council, dated August 2016.
- 3 – Policy CS28, extract from Reading Core Strategy, dated January 2008.
- 4 – Photographs of appeal site, submitted by the appellant, dated October 2012.
- 5 – Litter Clearing Notice served on Cardiff Properties Plc by the Council, dated 13 December 2012, with associated correspondence from the appellant dated January 2013.
- 6 – Revised S106 unilateral undertaking, submitted by the appellant, dated 27 November 2019
- 7 – Revised suggested conditions, submitted by the Council on 28 November 2019.
- 8 – Reading Borough Council 5 year housing land supply against Local Plan targets as at 31/3/2019, submitted by the Council on 28 November 2019.
- 9 – Housing Trajectory 2013/14 to 2035/36, Appendix 1 to RBLP, submitted by the Council on 28 November 2019.
- 10 – Covering letter from the Council confirming agreement with the appellant on the wording of the revised unilateral undertaking, suggested conditions and position on housing land supply, dated 28 November 2019.