
Appeal Decision

Site visit made on 25 August 2020

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 August 2020

Appeal Ref: APP/H1705/W/19/3229058

4 The Parade, Mulfords Hill, Tadley, Hampshire RG26 3LG

- 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 Ali Asci against the decision of Basingstoke & Deane Borough Council.
 - The application Ref 18/02769/FUL, dated 17 September 2018, was refused by notice dated 18 December 2018.
 - The development proposed is the erection of a first floor extension to create a 2-bed flat on the first floor and in the attic.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - The character and appearance of the area;
 - The living conditions of the occupants of the first floor flat at 3 The Parade having regards to light, privacy and outlook;
 - Public safety with particular regard to the off-site nuclear emergency planning arrangements for the Aldermaston Atomic Weapons Establishment (AWE), and;
 - Highway safety with regards to parking provision and on-site movements.

Reasons

Character and appearance

3. The section of Mulfords Hill nearest the appeal site is a busy road lined with properties in a variety of uses. The appeal site is an end of terrace two-storey mixed use unit within a small shopping parade. There is a uniformity of form and scale with active ground floor frontages throughout the small parade which contributes towards the vibrant character of the area. In contrast, alterations have been made to the rear of the terraced properties which, together with the hard surfacing and parking area adjacent, results in an ancillary and more functional appearance. Nevertheless, the generally modest single storey extensions in mostly matching materials have left the rear roof plane of the

terrace intact, views of which can be seen from Mount Pleasant. This gives a coherent impression of the parade as a whole.

4. The proposal would introduce an extension over the existing single storey rear projection to provide an additional flat. This would broadly double the first floor depth of the original end of terrace unit. It would also introduce a roof ridge at a similar height but 90 degrees to the main roof ridge within which two flat roof dormers are included. The amount of projection, combined with the dormer windows, would substantially increase the volume of built form at the end of the terrace. This would add a bulk and complexity to the simple roof form that would adversely diminish the symmetry and balance in the parade overall. Consequently, it would appear a disproportionate and incongruous addition. These concerns would not be fully overcome by the use of matching materials.
5. Furthermore, due to its height and relatively open rear aspect, the effect would be evident from Mount Pleasant, as well as from a number of surrounding properties. It would also be possible to see the dormer windows and side elevation from Mulfords Hill. This would exacerbate the harmful impact.
6. I have had regard to the guidance in the Tadley Design Statement, April 2004 which states that the use of flat roofs on dormer windows should be discouraged¹. This is reinforced in the Design and Sustainability Supplementary Planning Document, July 2018 (SPD) which states² that the design of roofs will have a significant impact on the appearance and character of buildings, along with their bulk, massing and scale, as well as how well they relate to the street scene and context in general. It goes on to give further advice cautioning against the use of dormer windows where there is a high degree of uniformity of roof design in which dormers are not present. For the reasons outlined, the proposal would be contrary to this guidance in the SPD and Tadley Design statement.
7. For similar reasons, the proposal would conflict with paragraph 127 of the National Planning Policy Framework (the Framework) which states, amongst other matters, that planning decisions should ensure that developments are visually attractive as a result of good architecture and are sympathetic to local character and history, including the surrounding built environment.
8. Accordingly, I find that the scale of the proposal combined with its prominence in the street scene would be out of proportion to the secondary appearance of the rear elevation and the terrace overall. As such, it would be harmful to the character and appearance of the area contrary to policy EM10 of the Basingstoke and Deane Local Plan (2011 to 2029), May 2016 (LP). This policy primarily seeks to deliver high quality development, which amongst other things, requires development to positively contribute to local distinctiveness, the sense of place and the existing street scene. It further states that relevant SPDs and community documents that identify the local character and distinctiveness of an area which is valued by local communities will be taken into account.

¹ Page 13 Design Guidance for Housing Developments and Page 18 Design Guidance for Amenities, which notes that most of the design guidance for housing development is also applicable.

² Paragraph 8.34

Living conditions

9. 3 The Parade adjoins the appeal site and contains living accommodation at first floor level that has windows in the rear elevation. The information provided³ suggests that the nearest window to the proposal serves a bedroom, the middle one a bathroom and the furthest one a kitchen.
10. The SPD includes bedrooms within the term habitable rooms⁴ and states that dwellings must have sufficient daylight to allow the comfortable use of habitable rooms and kitchens. The combination of the proximity of the proposed extension to the bedroom and kitchen windows, with its significant depth and siting south of the windows would markedly reduce the existing levels of natural light to those rooms. This would conflict with advice in the SPD to avoid extensions that overshadow or block natural light in relation to neighbouring properties⁵.
11. Furthermore, the proximity and length of the proposed side elevation to the bedroom window would dominate the outlook and would have a significant enclosing effect upon the occupants of the room. As such, it would contradict advice in paragraph 11.9 of the SPD. Moreover, a kitchen window is shown⁶ in the proposed side elevation at ninety degrees to the rear facing windows at No.3. This would have an immediate presence that would be particularly intrusive to the privacy of the adjacent residents.
12. Taken together, these factors would be unacceptably harmful to the living conditions of the occupants of the first floor living accommodation at No.3. Therefore, the proposal would fall short of achieving the high standard of amenity for existing and future users stipulated in paragraph 127 f) of the Framework.
13. The appellant indicates that the living accommodation at No.3 provides living quarters ancillary to the ground floor units. Be that as it may, the evidence does not show that as a result a lower standard of living conditions than would normally be the case is justified. Moreover, there is no guarantee that bedrooms would be occupied to a lesser extent during the day as is asserted, and it would not be unusual for example, to have a desk in a bedroom for work or study purposes. It is not shown the impact on light, privacy and outlook should be confined to the impact on living rooms as the appellant suggests, and the SPD indicates otherwise.
14. The appellants states that the Council has not quantified the loss of light. However, the SPD⁷ advises that there are no quantitative standards to be applied in every case in order to assess the amount of daylight and sunlight and the impact on outlook. Nevertheless, there are several 'rules of thumb' referred to, one of which is the '45 degree rule'. This states that there is normally the potential to achieve adequate levels of daylight and outlook when no part of a building cuts through a line radiating at 45 degrees from the centre of a window that lights a habitable room. Based on the evidence provided, I have doubts that the proposal would meet with this rule of thumb which reinforces my concerns.

³ Email dated 5.11.18, Appendix 1, Appellant's Appeal Statement

⁴ Paragraph 10.14

⁵ Paragraph 11.8

⁶ Drawing AB_01 Revision A

⁷ Paragraphs 10.16 & 10.17

15. In addition, the proposal would remove the first floor rear facing windows that serve the existing first floor hair salon within 4 The Parade itself. I have had regard to the representation received that explains that the existing windows serve the salon reception area, a bathroom and the staff room and colour dispensary. The reduction in natural light to the reception and staff room would harm the working conditions of staff and the customer experience for the salon business.
16. Accordingly, I find that the proposal would have an unacceptably harmful impact on the adjacent residents at No.3 The Parade due to reduction in light, privacy and poor outlook. Furthermore, it would unacceptably reduce natural light for the staff and customers of the first floor salon at 4 The Parade. Hence, it would be contrary to policy EM10 of the LP that, amongst other things, requires development to provide a high quality of amenity for occupants of developments and neighbouring properties, having regard to such issues as overlooking, access to natural light, and outlook, in accordance with the SPD.

Public safety

17. The site is within the Detailed Emergency Planning Zone (DEPZ) surrounding the AWE. Policy SS7 of the LP requires development in the land use planning consultation zones surrounding the AWE to be managed in the interests of public safety. It only permits development where the Off Site Nuclear Emergency Plan can accommodate the needs of the population in the event of an emergency. The policy requires that consultation replies from the Office for Nuclear Regulation's (ONR) Directorate will be considered having regard to the following: (a) the proposed use, (b) the scale of development proposed, (c) the location of the development, and (d) the impact of the development on the functioning of the emergency plan through appropriate consultation with the multi agencies who have duties under the Radiation Emergency Preparedness and Public Information Regulations (REPPiR).
18. The proposal would introduce an additional dwelling approximately 812 metres from the AWE site boundary and is within Sector H, one of the most densely populated sectors, of the DEPZ, which lies adjacent to other relatively densely populated sectors. The statutory consultee ONR⁸ advised against the development. This was consistent with the consultation received from the Joint Emergency Planning Manager at West Berkshire, who has duties under the REPPiR. The Emergency Planners were unable to give assurance that the additional household created by the proposal could be accommodated within the existing off-site emergency planning arrangements.
19. Notwithstanding the modest scale of the proposal, it would incrementally increase pressure upon the resources available to implement the Off Site Nuclear Emergency Plan in the event of a radiation emergency. An increase in residents, albeit small, would add to those who are likely to require assistance in the event of an evacuation and have consequences for the provision of rest centres and their staffing. Furthermore, it could add to potentially longer term accommodation issues for households evacuated. Future occupants of the proposal may also have vulnerable characteristics that would require specific attention.

⁸ Email dated 7.12.18

20. To justify individual development on the basis that it may be small in scale is an argument that might be too readily repeated, resulting in incremental development that would over time significantly undermine the management of the land use planning consultation zones surrounding the AWE in the interests of public safety.
21. The site is outside of the 600m area where urgent evacuation might be more likely. Even so, the risk of evacuation affecting the appeal site cannot be ruled out and therefore, providing short term shelter may not be sufficient in all circumstances. Evacuation is a scenario covered by the Off Site Nuclear Emergency Plan, the totality of which should be considered under policy SS7.
22. The appellant considers the designation of sectors, and their associated population density, within the Off Site Nuclear Emergency Plan as being arbitrary. However, there is little evidence to suggest that the designation of such sectors within the plan is a simplistic matter and it seems likely to be the result of the consideration of a range of factors of which I am not fully aware. Given the specific area of expertise of the Joint Emergency Planning Manager at West Berkshire, their comments on the deliverability of the Off Site Nuclear Emergency Plan carry considerable weight.
23. The appellant asserts that the Council have regularly permitted residential developments notwithstanding that relevant consultation responses have advised against it. Examples of residential development at Newchurch Road⁹ allowing 36 dwellings and Boundary Hall allowing 115 dwellings are given. However, two recent appeal decisions¹⁰ dismissing residential development have been brought to my attention. Based on the limited information provided, it appears that in contrast to the examples given by the appellant, the two appeal decisions are more recent and specifically consider the application of policy SS7 of the LP. As such, they are of greater relevance to the proposal before me and attract more weight. My approach is broadly consistent with that of the Inspectors in those decisions.
24. The appellant seeks to draw a distinction between the term 'advise against' used by the Joint Emergency Planning Manager response in this case and 'recommend refusal' in others. He suggests the former denotes a lower level of concern and is advisory in nature. However, there is little to substantiate the interpretation of terminology in this way. Moreover, the language appears consistent with that in the land use policy referred to in the Office for Nuclear Regulation consultation advice¹¹. This refers to the terms 'advises against' or 'does not advise against', and these appear to be most consistently used. Ultimately, I understand the term to express a view that the appeal proposal should not proceed.
25. Accordingly, I find that the proposal would adversely impact on the functioning of the Off Site Nuclear Emergency Plan contrary to the interests of public safety. Hence, it would run counter to policy SS7 of the LP and paragraph 95 of the Framework which generally states that planning decisions should promote public safety.

⁹ Reference 14/02200/OUT

¹⁰ Referenced APP/H1705/W/18/3200851 & APP/H1705/W/19/3221311

¹¹ Email dated 7.12.18

Highway safety

26. 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.
27. The Parking Supplementary Planning Document, July 2018 (Parking SPD) states that a 2 bedroom dwelling in the outer urban area should provide for 2 parking spaces (when rounded up) which should measure at least 2.7m x 5.2m. The Council are concerned that insufficient information has been provided to show that this could be accommodated whilst retaining appropriate access, turning and pedestrian access within the rear yard area.
28. Nevertheless, the proposed block plan¹² contains sufficient information to show that it is likely that two spaces of the required dimensions could be reasonably accommodated without significantly impinging on the operation of the wider yard area or preventing pedestrian access. Furthermore, the appellant has control over the wider yard area and I am not aware that there are any planning restrictions in force that would prevent a degree of flexibility as to the wider arrangements for parking, deliveries and waste storage not directly connected with the proposal.
29. Paragraph 54 of the Framework indicates that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. In these circumstances, in the event of permission being granted, it would be reasonable to impose a condition to secure the details of the parking provision as part of a wider yard layout.
30. Therefore, I find that subject to a condition to secure a detailed layout, the proposal would be able to provide appropriate parking in accordance with the adopted parking standards. It follows that the proposal would not have an unacceptable impact on highway safety, and I find no conflict with policy EM10 in this regard. Nor would there be a conflict with policy CN9 of the LP, which is supportive of proposals that, amongst other things, provide appropriate parking provision, in terms of amount, design and layout, in accordance with the adopted parking standards and an on-site movement layout compatible for all potential users.

Planning Balance and Conclusion

31. There is no dispute between the parties that the Council is unable to demonstrate a five year deliverable housing supply. Footnote 7 to paragraph 11 indicates in such situations paragraph 11 d) relating to the presumption in favour of sustainable development is engaged. As a result, there is no need to consider further whether the policies that are most important for determining the application are out-of-date for the purposes of paragraph 11.
32. The evidence does not show that the site lies within any of the designations set out within footnote 6 to paragraph 11 of the Framework. It follows that the circumstances in paragraph 11d)(i) do not provide a clear reason for refusing the development.

¹² Drawing AB_02 Revision A

33. Paragraph 11d)(ii) stipulates that in these circumstances permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.
34. The main benefit of the proposal would be an additional dwelling in a relatively accessible location in an area of unmet need. It would bring economic benefits during construction as well as those associated with the activities of future occupants. Nevertheless, the modest nature of the proposal curtails the extent of the benefits such that overall, the benefits attract moderate weight.
35. I found no harm to highway safety would arise from the development. However, this is not a benefit given it is a requirement of the LP, rather it is a neutral factor.
36. The adverse impact of the proposal includes the harm to the character and appearance of the area and the living conditions of neighbouring occupants. This would conflict with policy EM10 of the LP and paragraph 127 of the Framework. Furthermore, the proposal would have an adverse impact on public safety contrary to policy SS7 of the LP and paragraph 95 of the Framework. The nature and severity of harm in relation to these factors together with the consequent conflict with local and national policies, attracts significant weight.
37. Accordingly, when applying the balance in paragraph 11d)(ii) the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. Therefore, the presumption in favour of sustainable development in paragraph 11(d)(ii) does not apply in this instance.
38. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise¹³. The benefits of the proposal outlined above would not address nor outweigh the conflict with local and national policy and harm to the character and appearance of the area, living conditions of neighbouring occupants and public safety.
39. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

¹³ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.