The Planning Inspectorate

Appeal Decision

Hearing Held on 15 December 2020
Site visit made on 16 December 2020

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2021

Appeal Ref: APP/E0345/W/20/3250572
173-175 and 177 Kings Road, Reading RG1 4EX

- 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 Fitzwilliam Trustees No. 1 Ltd against the decision of Reading Borough Council.
- The application Ref 191097, dated 5 July 2019, was refused by notice dated 16 March 2020.
- The development proposed is erection of new building containing 6 no. apartments.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Plans have been submitted with the appeal that show revised internal layout, bin storage and parking details to those considered by the Council. These plans have not been the subject of public consultation but the proposal would remain substantially the same. Accordingly, I am satisfied no injustice would be caused by basing my assessment on the amended drawings.

3. At the hearing, the appellants presented draft unilateral undertakings for discussion. A signed and completed undertaking (the UU) under the provisions of section 106 of the Town and Country Planning Act 1990 (as amended) was submitted after the hearing. This requires a financial contribution towards the provision of affordable housing. The Council has provided comments on the completed UU to which the appellant has responded. I have taken the UU into account in my assessment as it does not change the proposed development.

Main Issues

4. The Council advise that the appeal plans have addressed its initial objections relating to the living conditions of occupiers of the proposal, parking facilities and waste storage. There is no reason for me to arrive at a different view on these matters. As such, the main issues are:-

   (i) whether the development would enhance or preserve the character or appearance of Eldon Square Conservation Area (the CA) and its effects on the setting and significance of the Grade II* listed buildings 173-183 Kings Road (the LB's),

(ii) the effect on the living conditions of occupiers of the lower ground floor flat at 177 Kings Road (the flat) in respect of outlook, and

(iii) whether an appropriate contribution towards affordable housing is proposed.

Reasons

The CA and the LB's

5. The CA gains its significance partly through the presence of many historic buildings which illustrate the area's past as one of Reading's early suburbs. Of these, the LB's are particularly prestigious due to their prominent location, historic form and fine features that reflect the late Regency period.

6. The proposal would be to the rear of the LB's and so would not be visible from Kings Road. However, it would be clearly seen through railings and between trees from Betam Road which lies to the rear of the appeal properties. Also, there would be glimpses of the building from Orts Road between the conifers near the site access. Furthermore, the development would be seen from the adjoining private properties.

7. The back elevations of the LB's are not as ornate as the Kings Road frontages and parts have been altered or rebuilt. Even so, they are constructed of stone and include features such as bows and sash windows that reflect the age of the properties. As such, the LB's significance can be appreciated to a degree from the identified vantage points to the rear.

8. The proposal would be separate from and lower than the LB's. Nevertheless, it would be a sizeable 3 storey building in close proximity and so would curtail views of the LB's from many of the public and private vantage points. Views of the rear elevations would remain but the screening effect of the development would diminish the appreciation of the LB's.

9. The development would be constructed of brick, albeit of a stone colour. Also, it would include architectural features of simplistic form such as aluminium window frames and glass balconies. These would fail to respect the quality of detailing seen on the exterior of the LB's. Given the contrast in appearance as well as its size and proximity, the proposal would draw the eye away from the LB's and so would detract from their appearance.

10. Furthermore, the open nature of the car park suggests its previous use as gardens. The plane tree would be retained and new planting would be provided but the development would reduce the openness of the site. As such, it would erode the remaining sense of the historic garden setting to the LB's. This harmful effect would be significant given the proportions of the apartment building and there is no evidence that an outbuilding of a similar size ever existed on the site. The additions to Nos 169 and 185 Kings Road do not set a precedent for the development as they do not intrude into the open area directly behind the LB's.

11. For the above reasons, I conclude the scheme would not preserve the setting of the LB's and would harm their significance. As the LB's are one of the most important features in the area, I also find that the proposal would not preserve or enhance the character or appearance of the CA. In these regards, the scheme would not accord with policies CC7, EN1, EN3, EN6 and CR2 of the

Reading Borough Local Plan 2019 (LP). These policies seek, amongst other things, to ensure development respects and does not harm the character, appearance and significance of heritage assets.

12. The proposal would not affect the principal elevation or physical structure of the LB's and large parts of the CA would remain unaltered. As such, the development would cause less than substantial harm to the significance of the heritage assets. In such circumstances, the National Planning Policy Framework (the Framework) states that the harm should be weighed against public benefits of the proposal. This is covered in the planning balance section of this decision.

Flat at No 177

13. The main window serving the flat is below the level of the car park but looks out onto a lightwell of a size that allows upward views of the sky and nearby trees. The proposed building would significantly interrupt this outlook and would tower above the window. Due to its height and proximity the development would appear overbearing even when taking into account the existing restricted views from the flat's window.

14. For these reasons, I conclude the proposal would harm the living conditions of the occupiers of the flat in respect of outlook. In this regard, it would fail to accord with LP policy CC8, which amongst other things, seeks to ensure development does not cause detriment to the living environment of residences.

Affordable housing

15. Under LP policy H3, the development would be unacceptable unless a contribution is made towards off-site affordable housing to the equivalent of 20% of the proposed units. A lesser contribution may be acceptable if fully justified. This policy is at odds with the Framework's provision that affordable housing should not be sought for non-major residential schemes. However, the LP has been adopted since the publication of the Framework and so policy H3 is afforded full statutory weight.

16. The Council accept that for viability reasons the maximum contribution that the proposal could sustain is approximately £142,000. The appellants contend the scheme is unable to support any contribution towards affordable housing. The main parties differ on the benchmark land value (BLV) and the amount that should be allowed for developer profit.

17. The planning practice guidance (PPG) states that BLV should be based on existing use value (EUV) plus a premium for the landowner. At the hearing, the appellants suggested that values per plot included in the Council's Affordable Housing Viability Testing Report 2018 should form the basis of the BLV. However, this report was adopted before the latest PPG provisions on viability and to adopt such an approach would be contrary to national planning advice.

18. Both main parties explained at the hearing that their BLV's have been based on the potential use of the site to provide more parking spaces than currently exist. No drawing has been submitted that shows how the additional spaces would be accommodated. Also, the evidence provided at the hearing highlight the different views in respect of the demand for parking in the area and the value that should be attributed to such facilities. Little information and no

market evidence have been submitted by either party to substantiate their contentions in these regards.

19. Moreover, the appellants explained at the hearing that their BLV has been calculated using a landowner premium of about 44% of the EUV. There is no clear explanation before me as to why this particular figure would represent the minimum return to incentivize the sale of the site for development. This level of premium would represent a small percentage of the gross development value of the scheme but this is not identified in the PPG as a factor that should influence the level of return to a landowner. As such, the evidence in support of the appellants' suggested EUV, landowner premium and BLV is unconvincing.

20. The appellants' affordable housing viability appeal statement accepts the Council's suggested figure of 17% developer profit. However, it was advanced at the hearing that there is now a greater developer risk due to an uncertain property market that would warrant a 20% profit rate. However, no price forecast evidence has been submitted and the Council contend any such information would show a predicted increase in property values.

21. It is likely that full sale and occupation of the first apartments would only take place once the whole building is completed. Nonetheless, the appellants' submissions indicate a reasonable build period of 1 year and sales within 4 months of completion. As such, there is inadequate evidence of excessive developer risk that would justify the 20% developer profit rate.

22. For the above reasons, I find the appellants' viability assessment includes profit and development costs that are not satisfactorily substantiated, leading to a residual land value that is too low. Given this and the concerns in respect of the suggested BLV, insufficient evidence has been submitted to demonstrate the proposal would be unable to sustain a contribution towards affordable housing.

23. Notwithstanding the appellants' contentions in respect of viability, the UU would secure £66,532 towards the provision of affordable units. This level of contribution is based upon a scenario where I agree with the appellants' submissions in terms of developer profit but with the Council in terms of BLV. As the appellants' suggested developer's rate of return is unjustifiably high, the circumstances for allowing the proposal with a lower contribution than that advanced by the Council have not been adequately demonstrated.

24. Therefore, I conclude that an appropriate contribution towards affordable housing is not proposed and in this regard the scheme would be contrary to LP policy H3. The Council's refusal reasons also refer to LP policy CC9 but this contains no provisions relevant to this main issue.

Other considerations and planning balance

25. Planning conditions could be imposed to address concerns raised in respect of construction noise and disturbance. The proposal would cause no significant harm to the living conditions of occupiers of residences other than the flat. Also, the proposal would not harm the well-being of the protected plane tree. Acceptability in these regards is a neutral factor that does not add weight in favour of the scheme.

26. The proposal would add to the housing stock and would address a demand for small units. Also, the UU would provide a contribution towards the provision of affordable housing, albeit at a level that has not been adequately justified.

However, there is no evidence of any particular shortfall in housing supply despite any development constraints that may affect Reading.

27. Occupiers of the apartments would have good access to facilities and the proposal would be the effective use of urban brownfield land. Also, the development would lead to construction employment and an increase in support for local business. Overall and having regard to the scale of the proposal, I attach moderate weight to all of the benefits of the scheme.

28. The detriment that would be caused to the significance of the LB's and the CA attracts considerable weight that would not be outweighed by the public benefits of the proposal. The impact on the living conditions of the occupiers of the flat and the absence of an appropriate contribution towards affordable housing also counts significantly against the scheme. The proposal would not be in accordance with development plan policies and there are no considerations that justify a decision otherwise.

Conclusion

29. For the above reasons, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Christina Meyer	Appellant
Neil Davis	Planner
Chris Griffiths	Heritage Consultant
Robin Furby	Affordable Housing Consultant

FOR THE LOCAL PLANNING AUTHORITY:

Claire Ringwood	Senior Planning Officer
Bruce Edgar	Conservation and Urban Design Officer
Andrew Jones	BPS Chartered Surveyors
Alison Amoah	Principal Planning Officer

INTERESTED PERSONS:

Naveed Bhati	Objector

LIST OF DOCUMENTS SUBMITTED AT THE HEARING:

1. Reading Borough Council Draft Affordable Housing Supplementary Planning Document October 2020.
2. Reading Borough Council Affordable Housing Viability Testing Report March 2018
3. High Court Judgement, Parkhurst Road Limited v Secretary of State for Communities and Local Government and The Council of the London Borough of Islington [2018] EWHC 991 (Admin)
4. Draft Undertaking A and Draft Undertaking B, both un-dated.