



Appeal Decision

Site visit made on 12 January 2021

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 February 2021

Appeal Ref: APP/W0340/W/20/3251653 12-16 Chapel Street, Thatcham RG18 4QL

- 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 T Young of Young Estates and Land Ltd against the decision of West Berkshire Council.
 - The application 19/01855/FULEXT, dated 10 July 2019, was refused by notice dated 31 October 2019.
 - The development proposed is demolition of existing dwellings (3no.) and construction of 17 no. one and two bedroom apartments, including parking and stores.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted amended plans as part of the appeal. These include the addition of a projecting window to bedroom 2 on Flat 11, and relocation of windows from the rear to the side elevations on first floor bedrooms to the rear building (Flats 15-16).
3. The procedural guide to planning appeals¹ advises that the appeal process should not be used to evolve a scheme and that it is important that what is considered at appeal is essentially what was considered by the local planning authority, and on which interested people's views were sought. If the appellant thinks that amending the application will overcome the reasons for refusal, they should normally make a fresh planning application.
4. Mindful of the principles contained within the Wheatcroft judgement², I consider that the development would be so changed by the suggested amendments that it would deprive those who should have been consulted on the changed development of the opportunity of such consultation. As that would not accord with the Wheatcroft principles, I have considered the appeal on the basis of the plans submitted to and determined by the Council.
5. Paragraph 7.5 of the Council's statement of case criticises the submission of additional plans and information by the appellant as unreasonable behaviour which has resulted in unnecessary expense. However, the Council has not made a formal application for costs, nor explained in any detail why the appellant's behaviour is unreasonable or what additional costs have been

¹ Procedural Guide: Planning appeals – England, November 2020

² Bernard Wheatcroft Ltd v SSE & Harborough DC [1982] P&CR 233

incurred. I have therefore not taken this criticism as a claim for costs under the Town and Country Planning Act 1990.

Main Issues

6. The main issues are:

- The effect on the character and appearance of the area, including landscaping on the site
- Whether the development should provide affordable housing
- The effect on the living conditions of neighbouring occupants of the adjacent nursing home, and at 18, 20 and 22 The Henrys, with regard to dominance, outlook and light.
- The effect on the living conditions of future occupants, with regard to outlook, light, outdoor space, and safety and security
- The effect on highway safety, with regard to access and parking provision
- Whether the development would be at risk from flooding.

Reasons

Character and appearance

7. The character of the area is one of a traditional street frontage with buildings of generally two storeys with hipped or pitched roofs positioned with their front elevations against the back edge of the pavement. Occasional breaks in the building frontage, such as the forecourt to the public house opposite or the Methodist Church garden to the east, provide variety in the street scene. There has been some modern redevelopment in recent years, including a three storey building on the corner with The Broadway and a residential care home that bounds the site towards the rear along one side. On the other side the site is bounded by a church and church hall, and at the rear by houses fronting The Henrys.
8. The proposed development would replace the terrace of houses at the front with a taller building spanning the width of the site and including an enclosed carriage entrance. The site would be developed in depth with buildings in the centre and at the rear. Parking and turning areas would take up much of the remaining space.
9. The Council considers the terrace of houses to be non-designated heritage assets because of their historic interest and positive contribution to the street scene. While they are vernacular in appearance and do contribute to the traditional character of the street, they do not fall within a conservation area, nor are they included on any local list of heritage assets, nor have I been provided with any evidence to demonstrate particular local historic importance. They have also had some unsympathetic alterations, including replacement of front windows and doors, which reduces their visual quality. Taking these factors into account, I consider that so long as any replacement development achieved a similar or better contribution to the street scene, there would be insufficient reason to resist their removal.

10. I consider the proposed replacement building would not achieve such a positive contribution to the street scene as the existing terrace of housing, nor would its design complement the character and appearance of the area. There would be large roof lights in the front roof plane and a box dormer and further roof lights at the rear. I am also concerned that the crown roof design of the building with a large area of flat roof would be apparent, particularly in oblique views from the sides and rear. The design of the roof of the building in this manner would appear bulky and at odds with the traditional pitched roof forms in the vicinity. The inclusion of rooflights in the roof planes would appear discordant where roofs are generally uninterrupted by such openings, particularly in the buildings fronting Chapel Road.
11. I am also concerned that the amount of building and hard surfacing within the site would make it appear overdeveloped and out of character with its surroundings. Most buildings in the vicinity front onto roads, with gardens behind. Where there is development in depth, it is either subservient in height, such as the church hall, or retains a degree of garden setting around it, such as the residential care home. In contrast, the proposed development would have very little soft landscaping, either retained or new. Where planting is shown to be included, it would be as narrow strips of land left over from the parking and turning areas rather than a setting that has been designed to complement and enhance the development. This would result in hard, building dominated space that would fail to respect the character or appearance of the area.
12. The appellant has referenced several mews style developments in support of the scheme. While a mews style design can in principle provide a good quality environment, the examples shown are mostly typical of larger urban or city settings. In the case of the appeal site, the character of the area is more domestic in scale with a greater degree of greenery, particularly in rear garden areas. I acknowledge that the site is sustainably located, and that national and local planning policies encourage the efficient use of land. However, it is also the case that the National Planning Policy Framework puts considerable emphasis on good design, such that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions³. The appeal scheme fails to achieve this latter aim for the reasons I have set out above.
13. In my view the amount of building proposed in the appeal scheme together with the overly dominant amount of parking and manoeuvring space would not achieve a development that reflected or complemented the surrounding area. As a result, it would significantly harm the character and appearance of the area, contrary to Policies ADPP1, ADPP3, CS14, CS17, CS18 and CS19 of the West Berkshire Core Strategy 2006-2026, which require that new development must demonstrate high quality and sustainable design that respects and enhances the character and appearance of an area, and is appropriate in terms of location, scale and design in the context of the existing settlement form, pattern and character.

Affordable housing

14. Policy CS6 of the West Berkshire Core Strategy 2006-2026 requires residential development to provide a proportion of units as affordable housing. On

³ National Planning Policy Framework, Section 12: achieving well-designed places.

previously developed land, sites of 15 or more dwellings are expected to provide 30% of units as affordable, subject to the economics of provision. The policy pre-dates the current version of the Framework, but in so far as it relates to major development is consistent with paragraph 63 of the Framework and I therefore give it weight.

15. The appellant considers that the scheme is unable to provide any element of affordable housing contribution on viability grounds. Viability appraisals carried out on behalf of the appellant⁴ and Council⁵ agree that viability is a limiting factor but disagree on the degree to which it would prevent any element of affordable housing being provided.
16. The viability consultants make different assumptions as regards a range of factors, as set out in their respective appraisals. In general, the appellant's consultant tends to use assumptions based towards the top end of what may be considered reasonable ranges, while the Council's consultant tends to use assumptions around the median or lower.
17. So far as the existing use value of the site is concerned, I note that it was sold in 2017. On the appellant's agent's own evidence land values have not changed much over the intervening period, and I am therefore persuaded that the Council's consultant's benchmark land value is more realistic. Other aspects affecting the gross development value, such as comparative sales values at Thatcham Court (a nearby development of flats), discounting ground rent, adjusting for abnormal development costs, and setting a higher developer's profit I consider the appellant's consultants to have a more reasonable argument.
18. In the most recent letter from the Council's consultant these and other factors are taken into account to form a more balanced viability appraisal. Based on that appraisal, to which I give weight, there is a small, positive viability surplus. Although only small, given the need for affordable housing in the area I consider that the development could and should make a contribution to the provision of affordable housing. As the development does not enable the provision of any element of affordable housing, I conclude that it would conflict with Policy CS6.

Living conditions of neighbouring occupants

19. The central building (Flats 7-12) would consist of 3, 3 storey elements linked at ground floor level positioned against the western boundary with the residential care home. The northern wing of the building would be positioned close to the flank elevation of the care home, while the central element would be opposite an outdoor seating area.
20. I consider that due to its proximity and height the northern element would have a significant and adverse impact on outlook and light to windows opposite it in the care home. I note that the rooms lit by these windows may be dual aspect, but the windows in question are still important sources of light and outlook for the occupants of these rooms, and the proposed building would appear dominant and harmful to the living conditions of their occupants. The

⁴ Kempton Carr Croft Property Consultants, viability appraisal and report, 21 February 2019 and letter 25 October 2019

⁵ Bruton Knowles Chartered Surveyors, viability report 24 October 2019 and letter 29 November 2020

building would have considerably more impact than the tree and hedging currently along the boundary.

21. The central element of the building would also overshadow and appear dominant to occupants using the outdoor seating area⁶. The building has been designed with gaps between the three elements which would allow for sunlight to continue to reach this area but nevertheless it would be overshadowed for parts of each morning and would appear overbearing because of the height and proximity of the central element.
22. The rear building (Flats 13-17) would back onto houses at 18, 20 and 22 The Henrys. The West Berkshire Supplementary Planning Document Part 2: Residential Development advises on a minimum back-to-back distance of 21m, although this is primarily directed at ensuring adequate privacy. While the rear block is closer to the houses in The Henrys at some 19m than the guidance suggests, the rear facing windows in the rear block at first floor level are shown to be obscured glazed and fixed shut below 1700mm above finished floor level so avoiding direct overlooking or the perception of overlooking. However, that approach does give rise to concerns regarding outlook and light to the rooms which I address under the living conditions of future occupants below.
23. The side facing rooflight windows in the second floor, however, appear to be at eye level and would cause a loss of privacy to the side facing windows in the care home through direct window-to-window overlooking. Alternatively, if the sills of rooflight windows were higher so that they were above eye level it would leave at least one of the bedrooms on the second floor without any outside view. Either way, the design of this part of the building would be poor giving rise either to overlooking of neighbouring occupants or poor living conditions for occupants of the second floor flat.
24. The Council has raised concern at the proximity of the rear building to the houses in The Henrys and its effect on outlook. While it would be very visible from the neighbouring properties' rear elevations and gardens, I consider there would be enough separation to avoid an unacceptable sense of dominance being caused to the living conditions of their occupants. I also do not consider that overlooking of rear garden areas, including the play area at the rear of the church hall, to be so pronounced as to be harmful. The references by the Council to 45 and 60 degree guidelines refers to immediately adjoining development such as house extensions, but I do not find them to be of particular help in assessing the appeal scheme where it is the distance between facing elevations that is of most relevance.
25. I conclude that as a result of the proximity and height of the central building, and the position of windows in the rear building, the development would harm the living conditions of occupants of the care home by reason of appearing overbearing, and causing a loss of outlook and privacy. Consequently, it would conflict with Policy CS14 of the West Berkshire Core Strategy 2006-2026, which requires new development to make a positive contribution to the quality of life in West Berkshire.

Living conditions of future occupants

⁶ RMV Architecture, shadow/sunlight diagrams

26. The ground floor flats in the central building (Flats 7-9) would have their living/kitchen areas orientated internally such that their primary means of light would be via internal courtyards. These courtyards would be enclosed by the surrounding three storey building, walls separating them from the parking spaces, and first floor terraces above the parking spaces. In my view, this inward looking, enclosed means of lighting the primary living space in each ground floor flat would result in an oppressive outlook to these living spaces and substantially reduced daylight and sunlight to the flats. This would result in poor living conditions for their occupants.
27. Ground and first floor bedrooms in the central building (Flats 7-12) would be lit by projecting windows with an obscured glazed main panel, and in the rear building some of the first floor bedrooms would be lit by windows that would be obscured glazed and fixed shut below 1700mm above finished floor level (Flats 15-16). In the case of the central building there would be some secondary light via smaller windows, but in both cases the main source of light and outlook to bedrooms would be severely curtailed such as to impair the living conditions of the occupants of those flats.
28. The West Berkshire Supplementary Planning Document Part 2: Residential Development considers that it is essential for the living conditions of future residents that suitable outdoor amenity space is provided in most new residential developments, and suggests that for 1 and 2 bedroom flats a minimum of 25sqm communal open space per unit is provided.
29. The appeal scheme fails to achieve the suggested outdoor amenity space requirement. The flats in the front building (Flats 1-6) would have no outdoor garden space, other than two small strips immediately to the rear, which are shown to be planted with shrubs and therefore not useable in practice for domestic recreational purposes. The flats in the central building (Flats 7-12) would have courtyards and terraces, although these would not be a minimum of 25sqm as suggested by the supplementary planning guidance. The flats in the rear building (Flats 13-17) would have an area of communal open space around the building of an adequate size to meet the guidance, but its useability would be compromised as the design of the scheme fails to make a distinction between private and communal space.
30. For these reasons I consider the outdoor amenity space provided in the appeal scheme to be inadequate. While accepting that the suggested outdoor space standard is for guidance rather than a policy requirement, and noting that other schemes permitted by the Council and in other appeals⁷ may have little outdoor space, I consider that in a scheme of this nature it is important that all flats have access to at least some outdoor space which their occupants can use for incidental domestic purposes. The scheme would not achieve that aim and as a result it would harm the living conditions of future occupants.
31. Thames Valley Police has also raised concerns about the lack of natural surveillance within the scheme. There is some justification for that view given the lack of outlook from windows of flats in the central building. However, other windows within the scheme to the front building (Flats 1-6) and the rear building (Flats 13-17) would look out onto all the internal parking and turning space, as well as onto Chapel Street. I do not therefore consider the lack of

⁷ APP/W0340/W/14/3000864

surveillance from the central building to materially compromise the level of security in the scheme.

32. While the safety and security of future occupants would be acceptable, I conclude that as a result of poor outlook and light to some of the flats, and the lack of outdoor amenity space, the development would harm the living conditions of future occupants. It would therefore conflict with Policy CS14 of the West Berkshire Core Strategy 2006-2026, which requires new development to make a positive contribution to the quality of life in West Berkshire.

Highway safety

33. The access to Chapel Street has been designed as a single width carriageway. This would prevent the simultaneous entry and exit of vehicles to the site. Chapel Street is an A class road and as part of the primary road network in the area carries a high volume of traffic. The lack of width to the access could lead to vehicles entering the site having to wait, or stop suddenly, to allow other vehicles to exit the site. This would be hazardous to the free flow of traffic on a busy main road, to the detriment of highway safety.
34. The passage of vehicles into and out of the site could also be disrupted by the location of the communal bin stores under the carriage entrance. Notwithstanding the ability to have roller shutter rather than outward opening doors as suggested by the appellant, the use of these bin stores would further obstruct vehicle movements into and out of the site.
35. The site is currently accessed by a single width drive with limited visibility. The increase in the number of units on the site from 3 houses to 17 flats would significantly increase the number of vehicle movements per day. Such an increase in traffic movements would in my view materially worsen highway safety when compared to the current situation. I reach that view notwithstanding the transport assessment submitted with the application⁸.
36. The front elevation of the front building (Flats 1-6) has been slanted to provide adequate vehicle and pedestrian visibility splays. This would avoid highway safety conflict between vehicles exiting the site and pedestrians using the pavement along Chapel Street, but it does not overcome the highway safety problem associated with the lack of width to the access.
37. The appellant has flagged as a precedent the access arrangements at 63 Bath Road⁹, although having regard to the comments made by the Highway Authority I consider this is not equivalent to the appeal scheme access. Irrespective of this example, or the presence of other single width accesses on to Chapel Street, I have judged the scheme on its own merits against current highway standards.
38. The Council raised concerns about the amount of car parking proposed for the site. However, it has now been agreed by both main parties that the site lies within Parking Zone 1 as defined on the Residential Parking Zones Map 2017, and the provision of 22 spaces would meet the required parking standard. There is, therefore, no objection to the scheme on the grounds of parking provision.

⁸ RGP – Transport Planning and Infrastructure Design Consultants, January 2019

⁹ 11/00146/OUTD

39. While the scheme would provide adequate parking, I conclude that due to the inadequate width of the proposed access the development would have an adverse effect on highway safety and as a consequence would conflict with Policy CS13 of the West Berkshire Core Strategy 2006-2026, Policy TRANS.1 of the West Berkshire District Local Plan 1991-2006 and Policy P1 of the Housing Site Allocations Development Plan Document 2006-2026 which require that development improves and promotes opportunities for healthy and safe travel.

Flooding

40. The Lead Local Flood Authority has raised concern at the lack of information to demonstrate that surface water flooding would not be a problem and that surface water drainage could be adequately achieved on the site, given the increase in building and hard surface coverage.
41. A flood risk assessment¹⁰ submitted with the appeal concludes that surface water flood risk is low, with a surface water flowpath likely to be of less than 300mm were there to be a flood event. As a consequence, the assessment recommends finished floor levels should be raised 300mm above ground level. This could be secured by condition.
42. The assessment also notes that the site is on superficial gravels where infiltration is likely to be feasible but if not then attenuation could be provided to provide temporary storage capacity during heavy rain, with a restricted outfall to the surface water sewer.
43. The Lead Local Flood Authority has maintained its concerns about the lack of information, particularly about how a sustainable drainage system might work on the site. However, I am satisfied that the assessment that has been carried out provides sufficient evidence to demonstrate that there would not be an unacceptable surface water flood risk, and that there are solutions to avoiding unacceptable additional runoff from the site causing surface water flooding to neighbouring land or overloading the surface water drainage system. The details of which solution may be most appropriate is a matter that could be addressed through a condition.
44. I conclude that the development would not be at an unacceptable risk of flooding, nor would it be likely to cause surface water flooding to neighbouring land, subject to agreement on further details which could be secured by condition. Consequently, the development would not conflict with Policy CS16 of the West Berkshire Core Strategy 2006-2026, which seeks to reduce the risk of flooding to new development and not increase flood risk elsewhere.

Conclusion

45. I have found that the site would not be at risk of flooding, that surface water disposal could be subject of a condition, and that sufficient parking space would be provided. These are neutral matters in the appeal in so far as they do not result in harm.
46. The development would make a more efficient use of the site resulting in a net increase in residential units, which would help meet housing demand in the area. The site is also located in a sustainable location close to local services and public transport. I attach limited favourable weight to these benefits.

¹⁰ Bob Sargent Consulting Hydrologist, Flood Risk Assessment, April 2020

47. However, I have found that the development would cause significant harm to the character and appearance of the area, the living conditions of neighbouring and future occupants, would adversely affect highway safety, and would fail to contribute towards the provision of affordable housing.
48. Having regard to these factors, I conclude that the proposal would conflict with the development plan when taken as a whole and the benefits of the scheme, which include the provision of additional housing, would not outweigh the harm so caused.
49. I conclude that the appeal should be dismissed.

Guy Davies

INSPECTOR