



Appeal Decision

Site Visit made on 15 March 2021

by Robin Buchanan BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2021

Appeal Ref: APP/P1750/W/20/3261379

Land Adjacent To 1 Pickford Street, Aldershot, GU11 1TY

- 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 Enterprise Home Developments against the decision of Rushmoor Borough Council.
 - The application Ref 19/00759/FULPP, dated 2 October 2019, was refused by notice dated 24 April 2020.
 - The development proposed is described as a new building comprising 14 apartments with associated parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the living conditions of the existing occupiers of flat 5 and flat 8 at No 1 Pickford Street, having regard to outlook and daylight;
 - whether it would provide sufficient on-site car parking;
 - whether it would make satisfactory provision for refuse collection and storage;
 - its effect on the Thames Basin Heaths Special Protection Area; and
 - whether it would make satisfactory provision for public open space.

Reasons

Outlook and daylight

3. The appeal site is an open hardstanding in use for car parking. It is located in a mixed commercial and residential area of Aldershot. On two sides it abuts adjoining buildings, including No 1 Pickford Street which is a mainly four and, in part, five storey building in use as flats. The appeal site would be redeveloped with a five storey building comprising four upper floors providing 14 two-bedroom flats with undercroft ground level car parking and bin storage.
4. The most immediate flats in No 1 Pickford Street facing the appeal site are flat 5 on the first floor and flat 8 on the second floor. At my site visit I was able to internally inspect flat 5, but not flat 8. Due to an indent in the side elevation of No 1 Pickford Street some of the east facing habitable room windows of

flat 5 and flat 8 are located slightly closer to the proposed building than other windows in both flats. The opposing side elevation of the proposed building would be progressively stepped back, further away from No 1 Pickford Street. This would result in a separation distance of about 11m and 16m between the windows of rooms in flat 5 and flat 8 and the closest parts of the proposed building, which would be three floors taller than flat 5 and two floors taller than flat 8.

5. Angled views in one direction from the closest habitable room windows of flat 5 and flat 8 are already partly restricted by the projection of the rear elevation of No 1 Pickford Street, as this building turns the corner into Crimea Road. This view would be completely blocked by part of the proposed building that would front Crimea Road. Moreover, perpendicular views from these windows of flat 5 and flat 8 would be directly towards the significantly taller side elevation of the proposed building as it extends in depth to this part of the appeal site. Views would therefore be unduly restricted in these two directions for occupiers of both flats and cause an unacceptable reduction in outlook.
6. I appreciate that there would be an angled view from these windows in the other direction, ie past the end of the proposed building and across the open part of the appeal site (albeit also towards tall buildings), and from a narrow south facing window to one of the habitable rooms in flat 5 and flat 8 (albeit restricted by a step out in the facing elevation of the building). Nonetheless, these views would therefore be limited and consequently would not adequately compensate for the unduly restricted outlook in two directions, including the perpendicular views. In addition, these other views would not alleviate the overly dominant sense of overbearing built form resulting from the depth, height and proximity of the proposed building and the significant degree of overlapping 'wrap around' effect that would be caused by the siting and layout of this part of the building.
7. As regards natural daylight, the appellant's Daylight and Sunlight report¹ (the report) shows the closest habitable room windows in flat 5 as 'W6' and 'W7', and in flat 8 as 'W4'. The report finds that all of these windows are currently above an existing Vertical Sky Component (VSC) value of 27%, but that below this figure 'neighbouring buildings will experience a noticeable reduction in the amount of skylight they receive'. I note that the appeal proposal would cause nearly a 50% reduction in skylight to windows W6 and W7, and a resulting VSC of 18% and 14% respectively, and that window W4 would experience almost a 40% reduction in skylight and a VSC of 19%. I consider that there would therefore be a significant reduction in daylight through these individual windows as measured by VSC.
8. The report finds that the average reduction in VSC levels in each of these rooms as a whole would be less than 20% and, from within both rooms, a view of the visible sky (and daylight as measured in this way) would remain at more than a 90% No Sky Line (NSL) value, with less than a 20% average reduction in NSL levels. On this basis, the report suggests that the proposed development would not adversely affect daylight for the occupiers of flat 5 and flat 8.

¹ Prepared by TFT, 7 February 2020

9. I note that an addendum² to the report states that the VSC method 'does not consider several factors such as...the size and use of the room the windows serve and whether a room is dual aspect'. However, on the face of it, this is at odds with the VSC assessment results and conclusions in the report which refer to the alleged use of rooms, to the number of windows in a room and their aspect, to average change and benchmark values for a 'room as a whole' and to rooms that 'benefit from light from other areas'.
10. Furthermore, the addendum states that the NSL method 'takes into account the size and position of the windows and room layouts to evaluate the impact the proposed development may have on the neighbouring buildings' and that 'Due to the limitations of the VSC method of assessment and the fact that the room layouts for 1 Pickford Street are known, it is appropriate to evaluate the daylight levels within rooms based on the NSL method of assessment'. In addition, the NSL assessment results and conclusions in the report suggest (consistent with the addendum) that rooms in flat 5 and in flat 8 would 'fully comply with BRE³ target values', that 'All rooms in 1 Pickford Street', ie including flat 5 and flat 8, 'will remain with good levels of daylight' and that the 'negligible' NSL reductions are 'based on the floor plans provided'.
11. Nonetheless, on the evidence before me, the report and the addendum have been prepared without internal inspection of flat 5 or flat 8 and are based on internal layout plans approved by the Council for the conversion of No 1 Pickford Street to flats. I saw that these plans do not actually reflect the internal layout or room uses of flat 5. For example, in the plans the 'bedroom' with four windows (W1 to W4) is a kitchen and the 'LKD' (lounge, kitchen diner) with five windows, including W6 and W7, is two separate rooms with W6 in one room and W7 in the other. As a result, the plans used by the appellant as the basis for the report and the addendum do not accurately represent some room sizes and layouts (or number of windows therein) that would be the closest to the proposed building, at least for flat 5.
12. Consequently, I am therefore concerned that the appellant has not justified or substantiated the claims made in the report and in the addendum with respect to daylight that would be received by flat 5 (and possibly for flat 8), including with regard to average room values. Nor that the proposed development would 'meet the intentions of the BRE guide in daylight terms'.
13. I recognise that a separation distance of 11m for residential occupiers of flats is not unusual in some urban locations, including as I saw between some facing windows of other buildings in Pickford Street and Crimea Road. However, these buildings and windows do not have the same height, siting, layout or juxtaposition to each other as would be the case with the appeal proposal in relation to flat 5 and flat 8 in No 1 Pickford Street.
14. On this issue I find that the combination of height, depth and proximity of the proposed building would result in an unacceptable sense of enclosure and consequently would cause harm to the living conditions of existing occupiers of flat 5 and flat 8 having regard to outlook and daylight. The appeal proposal would not accord with Policy DE1 of the Rushmoor Local Plan, February 2019 (LP). This policy includes that development should not cause harm to existing or adjacent users by reason of loss of light or outlook. It would also conflict

² Letter prepared by TFT, 12 March 2020

³ Building Research Establishment

with the National Planning Policy Framework (Framework) paragraphs 117, 122, 124 and 127 which seek to create high quality places that function well and sustain an appropriate amount of development, have a high standard of amenity for existing users and provide healthy, acceptable living conditions.

Car parking

15. In the evidence before me there is some variation in the Council's measurement and description of how far the appeal site is beyond the defined town centre boundary of Aldershot. Nonetheless, the appellant does not dispute the Council's assertion that the appeal site is outside of this boundary and is not therefore in the defined town centre. On the evidence before me, I have no reason to reach a different view in this regard. Consequently, Principle 6 and Appendix A of the Council's Car and Cycle Parking Standards Supplementary Planning Document, November 2017 (SPD) requires that 2 residents car parking spaces should be provided on site for each proposed flat (ie 28 spaces). In addition, SPD Principle 9 requires 0.2 of a visitor space for each flat, rounded up (ie 3 spaces). The total requirement would therefore equate to 31 car parking spaces.
16. However, the appeal proposal would provide 14 residents car parking spaces on site, ie one space per proposed flat, and no visitor spaces for these flats. There would therefore be a substantial under provision of on-site residents car parking (by 50%) and visitor car parking (by 100%) to serve these flats. Considering the scale of these shortfalls this would be a significant variance and not a 'slight under-provision', as the appellant otherwise suggests.
17. The SPD is based on the Council's most available up-to-date evidence base, including car ownership levels and surveys of completed residential development in the borough. Notwithstanding the potential accessibility of some development by other means than the private car, including public transport, it highlights the Council's concerns with regard to the adverse effects of maximum parking standards leading to inadequate off-street parking in residential development and consequently increased demands for on-street parking, giving rise to indiscriminate 'overspill' parking.⁴ It also highlights that visitor parking spaces give 'more flexibility' in residential development.⁵
18. I appreciate that SPD Principle 11a refers to a minimum parking standard of one space per dwelling and that SPD paragraph 5.6 (under Principle 9) states that it may be acceptable for visitor parking to use town centre car parks. However, even if the proposed development contributes to town centre regeneration — and such a residential development would likely have significant social value, as the appellant suggests — both these standards apply only to developments that are within the defined town centre and not to the appeal proposal which would fall outside.
19. Furthermore, in Principle 7 the provision of at least one car parking space per dwelling 'notwithstanding the size of location of the development' applies to conversion, re-use or changes of use (SPD paragraphs 5.2 and 5.3) whereas 'the full parking standard will be required for new build development' (SPD paragraph 5.2) as set out in Principle 6. Moreover, the proposed

⁴ SPD - paragraph 3.3

⁵ SPD - paragraph 3.11

development is new build and therefore Principle 7 does not override Principle 6 in this appeal, as the appellant otherwise suggests.

20. I recognise that the appeal site might be 'relatively close' to, or 'just outside' the defined town centre boundary and that it may be reasonably sustainable in terms of access to facilities and services by means other than the private car, including by cycling and also public transport. Nevertheless, there is unacceptable clear conflict with the Council's SPD with regard to the proposed provision of on-site residents and visitor car parking.
21. I saw that many surrounding roads have yellow line kerbside parking restrictions. While there are some nearby pay and display on-street parking bays, these are public spaces available to any local residents, visitors or businesses. These spaces would not therefore be allocated exclusively to, or always be available for, the future occupiers of the proposed flats and who may own more than one car. Indeed, I saw that these spaces were reasonably well used at the time of my visit. Moreover, I consider that it would be unreasonable and impractical for visitors to be unduly constrained to visiting residents outside of the controlled parking time periods, as the appellant suggests.
22. On this issue I find that the proposed development would not provide sufficient on site car parking. This would be to the detriment of future occupiers and would conflict with the Council's residential parking strategy. Neither would it accord with LP Policy IN2(d) which refers to the SPD. It would also conflict with Framework paragraphs 102, 124 and 127 which indicate that parking considerations should be integral to the design of schemes and contribute to making high quality places so as they will function well.

Refuse storage and collection

23. The location of the communal refuse and recycling bins area 'B2' would be next to some car parking spaces, including those for disabled drivers. In addition, the size and number of these bins indicate that one bin would significantly overlap with, and as a result materially reduce, the available width of the corridor between the car park and the ground floor entrance into the proposed block of flats. Furthermore, the route to manoeuvre these bins to the collection point would be relatively narrow and involve tight right-angled bends. These bins would therefore be unduly awkward for residents to use and move with risk of damage to the building or to parked cars. In addition, the siting of at least one of these bins would unduly impede pedestrian movement, in particular for parents with buggies and disabled people including wheelchair users and may also impede the movement of cycles.
24. I appreciate that there may be measures to help prevent potential damage to the building or to cars, such as the provision of bollards, but this would not address the other concerns that I have referred to above. I am also mindful that the proposed ground level layout would otherwise be somewhat fully utilised. These considerations therefore relate to the fundamental layout of the proposed development. Accordingly, it would not be appropriate to seek to resolve this issue by a condition, as the appellant suggests.
25. On this issue I find that the appeal proposal would not make satisfactory provision for refuse storage and collection and consequently would cause harm to the living conditions of future occupiers. It would not accord with LP Policy

DE1. This policy includes that development should make a positive contribution towards improving the quality of the built environment. It would also conflict with Framework paragraphs 124 and 127 which stress the importance of high quality places that function well, sustain an appropriate amount of development and have a high standard of amenity for future users.

Special Protection Area

26. The appeal proposal would be within a 5km zone of influence of the Thames Basin Heaths Special Protection Area (SPA), which is a nationally important habitat for breeding birds. Accordingly, a significant effect on the SPA would be likely to occur from the proposed net increase in residential development at the appeal site, leading to an increased population, in an area where the inhabitants of the development would be within such proximity to the SPA that they would be likely to visit it for recreational purposes.
27. The appellant has not provided a Habitats Regulation Assessment to allow the responsible authority to undertake appropriate assessment, as is a statutory requirement. In consultation with Natural England, the Council has adopted an 'avoidance and mitigation strategy' (the strategy)⁶. I note that the main parties agree that subject to securing appropriate mitigation, via a suitable planning obligation,⁷ the appeal proposal would not have a significant adverse effect on the ecological integrity of the SPA. However, while I understand that the appellant is 'willing to enter into a legal agreement'⁸ to secure such mitigation, there is no planning obligation before me to this effect in this appeal.⁹ In these circumstances I cannot therefore be certain that the proposal would not adversely affect the nature conservation interest and integrity of the SPA.
28. On this issue I find that the appeal proposal would cause harm to the SPA. It would not accord with LP Policy NE1 or with saved Policy NRM6 of The South East Plan, May 2009. These policies indicate that residential development should include adequate measures to avoid or mitigate any potential adverse effects on the SPA. It would also not accord with the strategy and would conflict with Framework paragraphs 170, 175 and 176 which indicate that development should protect and minimise impacts on sites of biodiversity value, including SPAs, and adequately mitigate harm to biodiversity.

Public open space

29. In the built-up area of Aldershot the Council considers that there is either a limited opportunity, or that it is not appropriate, to create new open space on smaller residential sites such as the appeal site. The Council therefore seeks a financial contribution of equivalent value to on-site provision for the enhancement and management of existing open space off-site elsewhere¹⁰ (in this case, the renewal of the Redan Hill Gardens playground, Windmill Road, Aldershot). However, while I understand that the appellant is also 'willing to enter into a legal agreement' to secure such enhancement there is no planning obligation before me to this effect in this appeal.

⁶ The Thames Basin Heaths Avoidance and Mitigation Strategy, July 2019 (updated April 2020)

⁷ Section 106, Town and Country Planning Act 1990, as amended

⁸ Appellant's final comments – prepared by ET Planning, 20 January 2021

⁹ Planning Inspectorate Procedural Guide Planning Appeals - England, March 2021 – paragraphs N.2.1 (Part 2 written representations process) and N.2.2

¹⁰ LP paragraphs 9.59, 9.60 and 9.62

30. In the absence of any such obligation I find that the proposal would not make satisfactory provision for public open space, as is required by the Council. It would not accord with LP Policy DE6. This policy permits residential development that includes a financial contribution for the enhancement and management of open space equivalent to the on-site open space requirement. It would also conflict with Framework paragraphs 92, 96 and 127 which stress the importance of the provision, and access to, open space including for the health, well-being and amenity of future users.

Other Matters

31. I note that the main parties agree that the appeal proposal would ordinarily need to make a financial contribution to the provision of affordable housing off-site, in accordance with LP Policy LN2 and the Council's Affordable Housing Supplementary Planning Document, September 2019. With the appeal the appellant submitted a Viability Assessment¹¹ (VA) which it considers shows that a financial contribution in this regard would render the proposal unviable. The Council has been in receipt of the VA since October 2020 and has had an opportunity to comment on it; but, in its statement of case stated that it 'cannot consider documentation submitted subsequent to issuing a Decision Notice'. Furthermore, on the evidence before me, the Council did not ask the appellant to meet its costs for an independent review of the VA, as is otherwise referred to in LP paragraph 10.21. Nevertheless, as I am dismissing this appeal on other substantive issues it is not necessary for me to consider this matter further.
32. The proposed development would contribute to the supply of housing and be aligned with the Government's objective of 'significantly boosting'¹² the supply of homes. The external appearance of the proposed building would be high quality and the proposal would result in a visual enhancement to the local area. In these regards it would otherwise be an effective and efficient use of previously developed 'brownfield' land. These would be benefits of the proposed development.
33. The appeal site is not in proximity to any listed buildings, is not in a conservation area, would not be at unacceptable risk of flooding and traffic generation and movement would not have an adverse impact on the local highway network. The absence of harm in these regards is a neutral factor in my decision.
34. I appreciate that the appellant has engaged with Council officers and has explored previous options for development of the appeal site. Nonetheless, I have considered the appeal on its individual planning merits including the impacts that would arise and consider that the latter would be significant.

Planning Balance and Conclusion

35. Section 38(6)¹³ states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

¹¹ Prepared by ET Planning, September 2020

¹² Framework paragraph 59

¹³ Planning and Compulsory Purchase Act 2004, as amended

36. As explained in the main issues above, the appeal proposal would cause harm to the living conditions of existing occupiers of flat 5 and flat 8 of No 1 Pickford Street having regard to outlook and daylight. It would also not provide sufficient on-site car parking, or make satisfactory provision for refuse storage and collection or for public open space, and would also cause harm to the SPA. I attach substantial weight to each of these considerations. The proposed development would not therefore accord with the development plan overall.
37. The appeal proposal would provide a modest number of new homes and I attach appreciable weight to this benefit. It would also be high quality in external appearance and visually enhance the local area. I attach moderate weight to these benefits.
38. Consequently, I find that the scale of development proposed and the identified benefits would be limited, such that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. There are no material considerations which indicate that my decision should not be taken otherwise in accordance with the development plan.
39. For the reasons given the appeal does not succeed.

Robin Buchanan

INSPECTOR