



Appeal Decision

Site Visit made on 8 June 2021

by Mr James Blackwell LLB (Hons)

an Inspector appointed by the Secretary of State

Decision date: 18 June 2021

Appeal Ref: APP/W0340/W/21/3269514

17 Eliot Close, Thatcham RG18 3UG

- 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 Optimo Ventures Ltd against the decision of West Berkshire Council.
 - The application Ref 20/02730/FULD, dated 18 November 2020, was refused by notice dated 15 January 2021.
 - The development proposed is a two-storey side extension to create new dwelling house with parking provisions and associated alterations.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on protected species;
 - the effect of the proposed development on the character and appearance of the area; and
 - the effect of the proposed development on the living conditions of the occupiers of the host dwelling, with particular regard to private amenity space.

Reasons

Protected species

3. During a previous application for development of the appeal site, a consultation response was received from the Council's ecologist requesting an ecological survey. The request for the survey was based on the proximity of suitable habitats for protected species to the appeal property (known to be less than 320m away). Whilst no ecology response was received by the Council in connection to the present application, the Council has asserted that the previous request for an ecological survey by the Council's ecologist remains relevant, due to the limited time which has elapsed between the applications. No ecological report was provided by the appellant during the application, nor has one been provided as part of this appeal.
4. The appellant should have been aware of the requirement for such a survey, particularly as this constituted a reason for refusal in its earlier planning application. Without such a survey, I am unable to properly consider any potential impact of the development on protected species, nor assess whether

any particular measures could be taken by the appellant in order to mitigate against any identified impact. A precautionary approach is therefore needed.

5. Circular 06/2005¹ (Circular) says the presence of protected species should usually be established before the planning permission is granted, "*otherwise all relevant material considerations may not have been addressed in making the decision*". The Circular goes on to say that "*the need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances*". Whilst I note the appellant's contention that the requirement for an ecological survey could be conditioned, the guidance in the Circular is explicit that this approach should only be taken in exceptional circumstances. There is no evidence before me to suggest there are any such exceptional circumstances in this instance. Without knowing the effects the proposal may have on protected species, it is not possible to demonstrate that these could be adequately mitigated.
6. I acknowledge the examples that the appellant has provided which relate to nearby developments of a similar nature, where no ecological survey was required by the Council (or else the issue was dealt with by an informative). However, once again I have no evidence before me regarding the proximity of these sites to protected species or associated habitats, so cannot draw any direct comparison with the proposal before me.
7. In the absence of any substantive evidence before me on which I can conclude otherwise in respect of the potential impact of the development on protected species, the proposal would conflict with Policy CS17 of the Core Strategy, which requires biodiversity in the district to be conserved or enhanced as part of any development proposal. It would also fail to accord with the National Planning Policy Framework (the Framework), which seeks to protect biodiversity.

Character and appearance

8. The appeal property is an end of terrace two-storey dwelling situated on Eliot Close, which is a cul-de-sac running away from Sagecroft Road to the east. The cul-de-sac includes a bend in the road which leads to a row of garages serving nearby dwellings, and the appeal property is located on the outer edge of this bend. The properties in the adjoining terrace are consistent in size and design and follow the same front and rear building lines. Together, these factors create a strong degree of uniformity between the dwellings, which in turn contributes positively to the street scene.
9. The front of the appeal property is accessed via a footpath which runs through a sizeable area of green open space in front of the terrace, which helps provide a good sense of openness to the area. Due to the siting of the appeal property at the end of the terrace, it benefits from a large garden which wraps around the house, and therefore occupies a significantly larger plot size than most other dwellings in its vicinity. The property is also flanked by green open space to its front and side, as well as garden to the rear, which again makes a positive contribution to the openness of the area.
10. The proposed development would extend out from the side elevation of the appeal property by approximately 5.3m. It would be similar in width and depth

¹ Paragraph 99, Circular 06/2005: Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within the Planning System

as the existing dwelling and would also follow the same roof pitch, so would sit flush with the terrace. The materials proposed would match the existing dwelling. In terms of size, scale and design, the proposed dwelling would therefore integrate seamlessly with the other properties in the terrace, ensuring that its strong level of uniformity is retained.

11. Although the proposal would reduce the openness of the area to some extent, I do not consider that this would be so significant as to create any undue cramped appearance or sense of overdevelopment. The overall open character of the area would be retained.
12. The Council has highlighted that the gross internal area of the proposed dwelling, which would be 74sqm, would fall short of the nationally described space standard² for a 2-bedroom 4-person dwelling (which is 79sqm), and argues that this is indicative of the development constituting an overdevelopment of the plot. However, the shortfall in size from the prescribed space standard is marginal. The new dwelling would be a proportionate addition to the terrace, which would be commensurate with other dwellings along the terrace and within the wider area.
13. The appellant has highlighted several examples of end of terrace properties which have been subdivided and extended to accommodate a new dwelling which are near to the appeal property. Collectively these examples do demonstrate a pattern of development in the area which is very similar to what is proposed in this instance. Notwithstanding the distinguishing features highlighted by the Council (including the larger plot sizes of the dwellings concerned and a greater level of retained garden), the examples provided by the appellant are comparable with the appeal property in terms of siting, degree of surrounding space and associated levels of openness. In terms of the current proposal, it is these same factors which ensure the proposed development would integrate well with the character and appearance of the area, without interrupting the street scene or appearing unduly cramped.
14. For these reasons, the proposals are consistent with policies ADPP1, CS14 and CS19 of the West Berkshire Core Strategy 2006 – 2026 (Core Strategy), which ensure new development achieves a high quality of design which is responsive to existing settlement patterns and which respects and enhances the character of the area. The proposal is also consistent with the overarching design objectives of the Supplementary Planning Document: Quality Design 2006 (Design SPD) and the Framework.

Living conditions

15. The Council's Design SPD sets out general guidance for gardens of new dwellings to adhere to in terms of size. For a 2-bedroom dwelling this is 70sqm and for a 3-bedroom dwelling this is 100sqm. As the appellant has highlighted, the Design SPD is clear that these are guidelines only, and it does allow some flexibility. The Design SPD is also explicit that it is the quality of outdoor space that matters most, rather than size.
16. The garden of the proposed new dwelling would equate to approximately 70sqm, which would meet the guidelines set out in the Design SPD. The retained garden of the host dwelling would be approximately 60sqm, which

² Technical Housing Standards, Nationally Described Space Standard, March 2015 (Department for Communities and Local Government)

falls short of the suggested guideline of 100sqm for a 3-bedroom dwelling by 40sqm.

17. The Council has intimated that due to the limited size of the garden retained by the existing property, it is not of high quality. However, I could see from my site visit that the retained garden would still be capable of accommodating (and indeed does accommodate) features such as a garden shed, washing line and an area for sitting outside. These are all markers of quality of private amenity space highlighted in the Design SPD.
18. There is also a large expanse of green open space in front of the appeal dwelling. This green space, which is rectangular in shape, is bordered on 3 sides by the garden frontages of other dwellings. The remaining side of the green space borders the tail end of Lamb Close. Like Eliot Close, Lamb Close is another small cul-de-sac, with very little traffic movement. This means the area of green space at the front of the appeal dwelling is well protected from passing traffic or parked vehicles. Contrary to the Council's position, I am of the view that this area of grassland offers valuable amenity space for the occupiers of the appeal property and can be used for recreational activities without any notable safety concerns. I am satisfied that this area alone would adequately compensate for the shortfall of retained private garden space to serve the existing dwelling. This is irrespective of the useability of the nearby playground which is disputed by the parties.
19. The Council has provided examples of 2 appeal decisions which involved under-provision of outdoor amenity space, to highlight its importance for new developments. Whilst I note the content of these decisions, both appeals concerned large apartment blocks which included a substantial under-provision of private amenity space, where many of the new dwellings would have access to little or no outdoor amenity space. The proposed development in this instance is for a single dwelling only, and both the new and existing dwelling would still retain a certain amount of useable garden space. There is also a large open expanse of grassland in front of the appeal property which helps mitigate against any on-site shortfall. For these reasons, the examples provided are not sufficiently comparable to this appeal to weigh on my decision.
20. The proximity of the appeal property to a large expanse of open green space compensates for the shortfall of retained garden to serve the existing dwelling. In turn, this ensures that the living conditions of the occupiers of the existing dwelling would not be unduly compromised by the proposed development. I am therefore satisfied that the proposed development is consistent with Policy CS14 of the Core Strategy, which ensures the functionality of new development is informed by wider context, having regard not just to the site and immediate area, but to the wider locality. The development would also be consistent with the Design SPD, which encourages flexibility in the application of its guidelines where local circumstances permit, as well as the principles within the Framework which promote quality living conditions.

Conclusion

21. I have found that the proposal would not significantly harm the character and appearance of the area nor the living conditions of the occupants of the existing dwelling, with regard to private amenity space. However, these are neutral effects that neither weigh in favour of nor against the proposal and

therefore do not outweigh the potential significant harm the proposal may have on protected species. For this reason, I conclude that the appeal should be dismissed.

James Blackwell

INSPECTOR