



Appeal Decision

Site visit made on 8 June 2021

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th October 2021

Appeal Ref: APP/H1705/W/21/3268668

Land between 41 and 43 Halliday Close, Basingstoke.

Grid Ref Easting:463026 Grid Ref Northing:150758

- 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 Quadron Investments Ltd against the decision of Basingstoke & Deane Borough Council.
 - The application Ref 20/02219/FUL, dated 12 August 2020, was refused by notice dated 11 December 2020.
 - The development proposed is erection of 6 no. residential dwellings (Class C3) along with associated car and cycle parking, waste/recycling storage, private amenity space and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the refusal of the planning application and the submission of this appeal, a revised version of the *National Planning Policy Framework* (the Framework) was published on 20 July 2021. The main parties were given the opportunity to address this matter, and I have taken this into account where relevant to my decision.
3. Amendments to drawing nos. 491-100 Rev F, 491-102 Rev F, 491-103 Rev F, 491-130 Rev F, 491-131 Rev F, 491-140 Rev F, 491-141 Rev F and 491-143 Rev F were submitted as part of this appeal, which did not form part of the planning application determined by the Council. These plans show changes to the proposed dormer windows on the front (east) elevation of the new building, which would be reduced in height and depth so that they would be positioned more centrally within the roof slope and set up above the eaves.
4. The Council has confirmed that it considers the changes to be minor, and that they do not address the Council's concerns about the dormers appearing as incongruous features within the context of surrounding development. Having regard to the Wheatcroft principles¹, I consider that the proposed changes would not fundamentally alter the nature of the development previously consulted upon and determined by the Council. As such, I am satisfied that my consideration of these amended plans would not deprive those who should have been consulted on the changes, the opportunity of such consultation. I

¹ Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37].

shall therefore determine the appeal on the basis of the amended drawings, which comprise revision G to the above drawings.

Application for costs

5. An application for costs was made by Quadron Investments Ltd against Basingstoke & Deane Borough Council. This application is the subject of a separate decision.

Main Issues

6. The Council's appeal statement in paragraphs 4.15 – 4.20 confirms that the Council's second reason for refusal relates to concerns in respect of the impact of the proposal on the privacy and outlook of neighbouring occupiers. As such, the main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the living conditions of neighbouring occupiers, in respect of privacy impacts; and
 - The effect of the proposal on the living conditions of neighbouring occupiers, in respect of outlook impacts.

Reasons

Character and appearance

7. The appeal site is located within an established suburban residential area within the Settlement Policy Boundary of Basingstoke. A row of disused garages runs across the site adjacent to the western boundary and the remainder of the site is given over to hardcore surfacing. Close-boarded fencing encloses the site, incorporating a vehicular access point from Halliday Close. The site is surrounded by residential development and is used informally for parking by local residents.
8. There is a high degree of uniformity in respect of the surrounding built development in terms of building form, height, layout, building line and materials. Properties generally have front and rear gardens, the former which are characterised by landscaped, open-plan frontages.
9. The appeal scheme would comprise infill development within the existing built townscape. The proposed rectangular building footprint and orientation of the building across the site would be in keeping with the prevailing layout of development in Halliday Close and Cranbourne Lane. Whilst the building would have a deeper footprint than those to the sides at nos. 41 and 43, the rear building line would be roughly consistent with the neighbours, and the small projection beyond the front building line of these properties would not result in the building appearing unduly visually prominent within the street scene.
10. The proposed spacing between the side of the new building and the side wall of nos. 39-41 would be less than that which exists between the pairs of properties to the south of the site in Halliday Close and those in Cranbourne Lane, but it would still enable the provision of sufficient space to this side of the building so that the new building would be clearly perceived as a separate entity, and the spacing would not be out of place within the context of the surrounding built residential development which includes terraced properties.

11. The proposed space to the other side of the building would be of a comparative size to that which prevails around the site. Although the new building would be sited adjacent to the public footpath which links Halliday Close and Cranbourne Lane, this would not be an unacceptably cramped relationship. Such proximity of side walls to paths is not uncommon on residential estates, and it would be limited to the depth of the building. Accordingly, the development would not appear unduly cramped in relation to neighbouring properties.
12. Although not a prevalent form of frontage parking within the area, the proposed arrangement of short front gardens with perpendicular parking across the site frontage, and a bin store to the front of the building would not appear unduly incongruous within the context of the surrounding layout of development, having regard to the position of the neighbouring row of garages in front of no.43, with which the proposed parking and bin store would roughly align. The new bin store would not appear unduly unobtrusive within the streetscene, due to a combination of its low height, position next to boundary fencing, timber finish and green sedum roof design.
13. The new front gardens, whilst shorter than those immediately adjacent to the south, would introduce some soft landscaping to this part of the site where none currently exists, and would not be significantly smaller than some existing front gardens further south within Halliday Close. New soft landscaping would also be introduced in the rear part of the site through the provision of rear gardens, whose depth would be in keeping with those of neighbouring development, thereby maintaining the current pattern of spacing between buildings fronting Halliday Close and Cranbourne Lane which prevails to the south of the appeal site.
14. Whilst proposing accommodation over three floors, and notwithstanding the neighbouring two-storey development, the evidence before me is that the proposed roof eaves and ridge heights would be similar to those of the closest neighbouring building at nos. 39-41, not significantly higher than those of nos. 43-45 on the other side, and lower than those of the properties opposite the site in Loveridge Close. Although not a feature of surrounding built development, the proposed front dormer windows would sit comfortably within the front roof slope having regard to the proportionately smaller area of glazing in comparison with the majority of the front elevation windows below, their positioning within the roof which allows for space between the windows and the ridge and eaves, and their matching tiles to those of the main roof. The proposed roof lights would sit discretely within the rear roof slope.
15. As such, and taking account of the proposed traditional pitched roof form of the building and proposed brick and tile finishes, the proposed roof level of accommodation would not appear unduly incongruous within the context of surrounding development, and the new building would fit comfortably within the context of the surrounding residential properties.
16. In addition, during my site visit, I observed full three storey residential development further south within Cranbourne Lane above a local parade of shops. Whilst not immediately adjacent to the appeal site, this has established an element of three storey development within this part of the residential estate.
17. The incorporation of some contemporary elements to the front elevation fenestration, including front door design and balconies, would not be unduly

harmful within the context of the surrounding post-war suburban housing development.

18. Whilst the density of development would be higher than that of neighbouring development, it partly reflects the inclusion of flats and maisonettes, the latter of which are evident in nearby development, and the density would not be excessively high in relation to current residential development densities, and having regard to the Framework support for making efficient use of previously developed land for housing.
19. For the above reasons, I conclude that the proposal would integrate successfully with surrounding residential development, and would not appear unduly cramped or incongruous. It would not, therefore, have a materially harmful effect on the character and appearance of the area. As such, the development would accord with the objectives of Policy EM10 of the *Basingstoke and Deane Local Plan 2011-2029* (2016) (the Local Plan) and the Council's *Design and Sustainability Supplementary Planning Document* (2018) (the DSSPD), which, amongst other things, require new development to be of a high-quality design which positively contributes to the appearance and use of streets and other public places, have due regard to the density, scale, layout appearance, architectural detailing and materials of the surrounding area and the relationship to neighbouring buildings, and promote the efficient use of land and achieve appropriate housing densities which respond to the local context.
20. For similar reasons, the development accords with guidance in Chapter 12 of the Framework which requires well-designed places.

Living conditions – privacy

21. Whilst the DSSPD is not part of the development plan, it was adopted by the Council following public consultation to support the delivery of the Local Plan, and is specifically referred to in Local Plan Policy EM10 in respect of criterion 2 b) of this Policy which refers to the requirement for new development to provide a high quality of amenity for occupants of neighbouring properties, having regard to issues including overlooking. As such, I find the DSSPD to be a material consideration in the determination of this appeal.
22. Principle RA6 of the DSSPD sets out the minimum back-to-back distances required between residential developments to ensure that the privacy of neighbouring dwellings is protected. For 2 storeys the requirement is 20m and for 3 storeys 28m is required.
23. Both parties are agreed that the rear wall of the new building would be sited approximately 17.5m from the rear windows of the nearest properties to the rear in Cranbourne Lane, and that the requirements of Principle RA6 will not be met. The DSSPD allows for some flexibility, having regard to the character of the area, and in this respect the proposed back-to-back distance would be similar to that of the existing development to the south of the appeal site. However, the proposal would introduce new built development into an existing built environment in which neighbouring living conditions have already become established, unlike a planned urban development incorporating shorter back-to-back distances from the outset. As such, in this instance, neighbouring residents would be accustomed to an existing level of privacy which would be impacted upon by the appeal scheme.

24. Notwithstanding the removal of 4 no. rear first floor windows during the course of the determination of the application, the proposal would nonetheless still incorporate a significant number of windows at first and second floor level which would look directly towards the rear walls and private rear outdoor amenity areas of the neighbouring properties in Cranbourne Lane within the distance deemed to be acceptable by the DSSPD.
25. All of the proposed upper floor windows would serve rooms where occupiers of the new dwellings would expect to benefit from an outlook, comprising kitchens, bedrooms and study rooms, and all of the windows would be of a fairly large size. Furthermore, the submitted section drawing no.491-130 Rev G indicates that the new building would be sited at a higher ground level than that of the properties to the rear in Cranbourne Lane. In this instance, it would be realistic to assume that the required back-to-back distance should be increased to take account of the impact of this height difference, as acknowledged within the DSSPD.
26. Notwithstanding the angle of the roof slope within which the rear roof lights would be positioned, it has not been satisfactorily demonstrated that overlooking from these windows would not be possible, having regard to the proposed floor to cill height, and in any case, the combined number and size of proposed upper floor windows would be such that there would be perceived as well as actual overlooking impacts.
27. The DSSPD does not specify minimum standards for distances between fronts of dwellings across a street. However, in the case of the appeal scheme, the front elevation of the proposal would directly face private rear gardens and rear elevations of several dwellings located directly opposite the site. As such, the back-to-back criteria of Principle RA6 provide an appropriate measure with which to assess the proposal.
28. Whilst the 2-storey part of the proposal would accord with the requirements of Principle RA6 in respect of the distance between the new building and the rear walls of the houses on the opposite side of the road, the proposal would fall short of the 3-storey 28m minimum back-to-back standard within the DSSPD, even allowing for the set-back positioning of the proposed dormers within the roof slope. Furthermore, in addition to actual overlooking, there is likely to be the effect of perceived overlooking as a result of the proposed row of dormer windows which would face the rears of the properties opposite.
29. For the above reasons, I therefore conclude that the proposal would result in a materially harmful effect on the living conditions of neighbouring occupiers, in respect of privacy impacts. The development would therefore be contrary to Local Plan Policy EM10 and the DSSPD, in so far as this policy and guidance seek to ensure that development proposals respect the amenities of neighbouring properties, having regard to privacy.
30. This is generally consistent with Paragraph 130 of the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity for existing and future users.

Living conditions – outlook

31. The Council is concerned that the proposed proximity of the new building to the neighbouring properties at 39-41 and 43-45 Halliday Close would not provide

adequate living conditions for the occupiers of these properties, particularly those to the south of the site. The side walls of the neighbouring property comprise blank facades, with the exception of ground floor entrance doors to first floor maisonettes. Whilst the new building would impact on the outlook from the side of the neighbouring buildings, this would only be for the duration of time whilst the neighbours traverse that area for the purpose of accessing or exiting the building or walking between the front and the rear of the site. The side doors are mostly solid, and no neighbouring habitable rooms would be adversely affected.

32. For the above reasons, I therefore conclude that the proposal would not give rise to a materially harmful effect on the living conditions of neighbouring occupiers, in respect of outlook impacts. The development therefore accords with Local Plan Policy EM10 in so far as this policy seeks to ensure that development proposals respect the amenities of neighbouring properties, having regard to outlook.
33. This is generally consistent with Paragraph 130 of the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity for existing and future users.

Planning Balance

34. The Council has confirmed that, with the addition of a 5% buffer in accordance with the Housing Delivery Test 2020 (HDT) published in January 2021, it cannot demonstrate a 5-year supply of deliverable housing sites as required by the Framework. It has confirmed that it is able to demonstrate 4.44 years of deliverable housing land supply. As such, whilst not yet acute, there is an undisputed undersupply of deliverable housing sites within the Borough.
35. Paragraph 11 of the Framework sets out that decisions should apply a presumption in favour of sustainable development, and that, under criterion d), where the policies that are most important for determining the application are out of date, planning permission should be granted unless: i) the application of policies within the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
36. The appeal site is not subject to policies in the Framework that protect areas or assets of particular importance that provide a clear reason for refusing the development. Given the lack of a 5 year housing land supply, paragraph 11 d) of the Framework is engaged.
37. When judged against some of the core planning principles of the Framework, the appeal proposal would perform well in that it would be in an urban area where access to facilities is likely to be greatest. Also, there would be benefits arising from the creation of 6 additional dwellings, which would make a modest contribution towards addressing the housing supply deficit, and could be built-out relatively quickly, having regard to paragraph 69 of the Framework. The proposal would also deliver economic benefits during the construction period and during the occupation of the dwellings.

38. The dwellings could incorporate sustainable aspects, and the appellant has confirmed that the proposal would include net biodiversity gains. However, as the appeal scheme is only for six dwellings, these benefits would be modest.
39. The Council has raised no objection to the appeal scheme in respect of matters including highways, parking and refuse, biodiversity, drainage, flooding and contaminated land. On the basis of the evidence before me, neither do I. In terms of the planning balance, I find that a lack of identified harm in respect of the above matters, in addition to my findings that there would be no harm to the character and appearance of the area, would comprise a neutral factor.
40. However, for the reasons set out above, I conclude that the appeal scheme would have a harmful effect upon the living conditions of the occupiers of neighbouring properties. This would conflict with the requirements of the Framework to achieve well-designed places in which developments create places with a high standard of amenity for existing and future users. Having given careful consideration to the balance of factors, I consider that, when assessed against the policies of the Framework taken as a whole, this harm would significantly and demonstrably outweigh the benefits of the proposed development. Therefore, the presumption in favour of sustainable development in paragraph 11(d)(ii) does not apply in these circumstances.

Other Matters

41. I have noted that the appeal scheme represents an amended proposal from that of the withdrawn application ref 20/00123/FUL, following ongoing discussions with the Planning Officer, including reductions in the number of proposed dwellings and the amount of proposed built form, and changes to the detailed building design and materials. I have also taken into account alterations that were made to the scheme during the course of the determination of the application in response to Officer feedback. However, this does not alter my findings in respect of the appeal scheme, which I must consider on the merits of the scheme before me.
42. Neither are my conclusions altered by the fact that the Officer Committee Report recommended approval, since the Council's decision is one which is a matter of judgement. The Council Members in this case were entitled not to accept the professional advice of Officers, so long as a case could be made for the contrary view.
43. Whilst the Framework encourages efficient and effective use of land for new housing, and the optimal use of land where there is a shortage of housing, this is not unqualified, and does not outweigh or justify the harm that I have identified in respect of the second main issue.

Conclusion

44. For the reasons given above, I conclude that the appeal should be dismissed.

S Leonard

INSPECTOR