The Planning Inspectorate

Appeal Decision

Site visit made on 17 August 2022

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 October 2022

Appeal Ref: APP/W0340/W/22/3292438
Land adjoining No. 11 Pond Close, Newbury, Berkshire RG14 6HJ

- 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 A, D & E Property Limited against the decision of West Berkshire Council.
- The application Ref 21/01911/FULD, dated 22 July 2021, was refused by notice dated 13 January 2022.
- The development proposed is removal of derelict garages and erection of 2 no. houses and 2 no. flats, together with associated landscaping and parking.

Decision

1. The appeal is allowed and planning permission is granted for removal of derelict garages and erection of 2 no. houses and 2 no. flats, together with associated landscaping and parking at land adjoining No. 11 Pond Close, Newbury, Berkshire RG14 6HJ in accordance with the terms of the application, Ref 21/01911/FULD, dated 22 July 2021, and the plans submitted with it, subject to the conditions in the attached schedule.

Procedural Matter

2. For the avoidance of doubt, it was confirmed by the Council that the site is not within the nutrient neutrality zone established by Natural England. The appeal has been considered accordingly.

Application for Costs

3. An application for costs was made by A, D & E Property Limited against West Berkshire Council. This application is the subject of a separate decision.

Main Issue

4. The main issue is the effect of the proposal on parking and highway safety.

Reasons

5. The site is located adjacent to Pond Close which is a narrow residential street with limited off street parking. This increases demand for on street parking outside some of the dwellings. However, there is no evidence of serious ongoing highway safety concerns, such as a relatively high volume of traffic causing dangerous congestion, collisions or other vehicle and pedestrian conflicts, among other things.

6. The site includes a number of derelict garages that are of limited internal dimension and insufficient to meet modern parking standards. They have been in a state of disuse for a considerable period of time and altogether make no contribution to alleviating existing on street parking demands or to 'general amenity' insofar as the term might be taken as relating to such matters.

7. Additionally, the site is in private ownership, and therefore could be fenced off in perpetuity, further diminishing any long term contribution to the existing parking context. As such, any transient usage of the limited hardstanding in more recent years, which has ceased, is unlikely to reoccur due to the landowner's prerogative.

8. The proposal would remove the derelict garages and erect 2 no. houses and 2 no. flats, together with associated landscaping and parking. Given the existing context, removing the garages and losing the hardstanding would have no bearing on parking demands or highway safety, or detract from residents' quality of life.

9. A sufficient number of parking spaces of appropriate dimensions would be provided to meet the demands of future occupants, whilst cycle storage would encourage more sustainable modes of transport and fewer car journeys, and electric charging would help encourage lower emission car journeys. Altogether, I am persuaded that any additional on street parking demands generated by the proposal would be negligible.

10. The highway would be widened and adopted under highways legislation. This would provide for safe pedestrian access along the site frontage, and would also enable vehicles, including lorries and emergency services, to pass safely despite on street parking outside a number of dwellings[1].

11. It may be the case that works to the highway would not provide passing places along the whole length of Pond Close. However, the works are sufficient in scope to mitigate the effects of the proposal along the site frontage. Furthermore, and elsewhere, I am satisfied that the highway authority has sufficient powers to impose waiting restrictions to ensure the proper function of the highway in general terms.

12. In any event, and as already determined, the proposal would provide sufficient off street parking to the extent that the demand for on street parking or passing places would not be diminished.

13. I acknowledge that in certain circumstances, there may be material considerations indicating that parking provision should sometimes be applied differently to what development plan policy requires.

14. However, I am not persuaded that the potential change of use to houses in multiple occupation, in light of local circumstances pursuant to Paragraphs 9 or 93 of the National Planning Policy Framework (the Framework), justifies such an approach in this case.

[1] No. 10 and 12 Pond Close

15. This is because the proposal before me is for Class C3 houses and flats. There is no evidence that a change of use away from what is proposed could happen without further planning or regulatory control, or if it could happen that the implications would be such that parking and highway safety would be materially harmed. Indeed, there is no objection from the highway authority in any of these respects.

16. The Council raises concerns over deficient sightlines, however there is no substantive evidence demonstrating that this is the case, and I am satisfied by the appellant's submissions and the lack of objection from the highway authority.

17. Overall, the proposal would be acceptable in relation to parking and highway safety and would accord with Policy P1 of the West Berkshire Local Plan Housing Site Allocations Development Plan Document 2017 and Policy CS14 of the West Berkshire Local Plan Core Strategy 2012.

18. Among other things, these policies specify that there may be exceptional circumstances where there is a case for providing parking that does not accord with the levels set out in the policy, and notes in its supporting text that levels of parking provision and the way in which they are designed are important factors in creating good quality environments.

Other Matters

19. There is no substantive evidence that the site makes a positive contribution to 'general amenity' insofar as such a term might be taken as relating to character and appearance. Indeed, it is a derelict site with worn out building fabric to be replaced with new development.

20. Whilst the street is characterised by housing and not flats, there is no substantive evidence that introducing a wider mix of residential development in the form of flats would detract from the character and appearance of the area.

Conditions

21. The appellant raised no objection to the pre commencement conditions suggested by the Council. These have been deemed necessary to avoid the adverse effects that may arise if development was permitted to proceed without prior controls. All conditions in the attached schedule have been considered against the Framework and Planning Practice Guidance and are necessary to make the proposal acceptable in planning terms.

22. Standard conditions setting out time limits and securing compliance with the approved plans are necessary to provide certainty. Securing an agreement under Section 38 of the Highways Act 1980, and other highways related conditions, are necessary to ensure highway works are implemented as approved and maintained in perpetuity in the interests of highway safety.

23. A materials schedule is necessary to ensure that the character and appearance of the area is respected. Submission of a construction method statement, and other construction related conditions, are necessary in the interests of highway safety, environmental conditions, and the living conditions of neighbouring occupiers during construction.

24. Sustainable drainage measures are necessary to ensure that surface water will be managed in a sustainable manner; to prevent the increased risk of flooding; to improve and protect water quality, habitat and amenity and ensure future maintenance of the surface water drainage system can be and is carried out in an appropriate and efficient manner.

25. Electric charging points are necessary to provide opportunities for using lower emission private vehicles. Access and parking requirements are necessary to ensure the development is provided with adequate parking facilities, in order to preserve highway safety. Cycle parking details are necessary to reduce the reliance on private vehicles.

26. Tree works, ecological mitigation and landscaping details are necessary to preserve and enhance the features of the site pursuant to the character and appearance of the area, biodiversity, and protected species. Obscure glazed windows are necessary to prevent overlooking of adjacent occupiers.

Conclusion

27. For the reason given, the appeal is allowed and planning permission is granted subject to the conditions in the attached schedule.

Liam Page

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2. The development hereby permitted shall be carried out in accordance with the approved plans and documents listed below:

    a. Planning, Design and Access Statement JUNE 2021 BR P19-0741 received 7th July 2021;

    b. Proposed Plans G.A Dwellings 19/012/01A received 7th July 2021;

    c. Location, Site and Block Plans 19/012/02E received 7th July 2021;

    d. Ecological Appraisal Version 3 dated 5th May 2021 prepared by J Taylor Ecological Consulting received by the Local Planning Authority on 7th July 2021;

    e. Planting specification and Maintenance Schedule supporting plan A,D and E/MO/001 received 7th July 2021;

    f. Landscape Masterplan ref: A,D,E/LM/001/AP rev: B received 7th July 2021;

    g. Tree Protection Plan Barrell Plan Ref: 19306-BT2 received 7th July 2021;

    h. Arboricultural Assessment and Method Statement by Barrell tree consultancy ref: 19306-AA-CA-27112019 received 7th July 2021.

3. No development to commence until a S38 agreement for the adoption of the highway works detailed on the plan titled Location, Site and Block Plans 19/012/02E received 7th July 2021, has been entered into.

4. The construction of the dwellings shall not take place until a schedule of the materials to be used in the construction of the external surfaces of the development hereby permitted, has been submitted to and approved in writing by the Local Planning Authority. Samples of materials shall be made available upon request. Thereafter the development shall be carried out in accordance with the approved details.

5. No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the demolition and construction works shall incorporate and be undertaken in accordance with the approved CMS. The CMS shall include measures for:

    a. A site set-up plan during the works;

    b. Parking of vehicles of site operatives and visitors;

    c. Loading and unloading of plant and materials;

    d. Storage of plant and materials used in constructing the development;

    e. Erection and maintenance of security hoarding including any decorative displays and/or facilities for public viewing;

f. Wheel washing facilities;

g. Measures to control dust, dirt, noise, vibrations, odours, surface water run-off, and pests/vermin during construction;

h. A scheme for recycling/disposing of waste resulting from demolition and construction works.

6. No development shall take place until details of sustainable drainage measures to manage surface water within the site have been submitted to and approved in writing by the Local Planning Authority. These details shall:

a. Incorporate the implementation of Sustainable Drainage methods (SuDS) in accordance with the Non-Statutory Technical Standards for SuDS (March 2015), the SuDS Manual C753 (2015) and West Berkshire Council local standards, particularly the WBC SuDS Supplementary Planning Document December 2018;

b. Include and be informed by a ground investigation survey which establishes the soil characteristics, infiltration rate and groundwater levels;

c. Include attenuation measures to retain rainfall run-off within the site and allow discharge from the site to an existing watercourse at no greater than Greenfield run-off rates;

d. Include construction drawings, cross-sections and specifications of all proposed SuDS measures within the site;

e. Include detailed run-off calculations, discharge rates and storage capacity calculations for the proposed SuDS measures, identifying connectivity between the features, based on a 1 in 100 year storm +40% for climate change;

f. Include flood water exceedance routes, both on and off site; Include flow routes such as low flow, overflow and exceedance routes;

g. Include pre-treatment methods to prevent any pollution or silt entering SuDS features or causing any contamination to the soil or groundwater;

h. Ensure any permeable paved areas are designed and constructed in accordance with manufacturers guidelines;

i. Include details of how the SuDS measures will be maintained and managed after completion. These should be site specific and detail the party responsible for the maintenance regime;

j. Provide written confirmation from Thames Water of their acceptance of the discharge from the site into the surface water sewer and confirmation that the downstream sewer network has the capacity to take this flow.

The above sustainable drainage measures shall be implemented in accordance with the approved details before any dwelling hereby permitted is first occupied or in accordance with a timetable to be submitted and agreed in writing with the Local Planning Authority as part of the details submitted for this condition. The sustainable drainage measures shall be maintained and managed in accordance with the approved Condition thereafter.

7. No dwelling shall be occupied until an electric vehicle charging point has been provided in accordance with the approved drawings. The charging point shall thereafter be retained and kept available for the use of electric vehicles.

8. The existing vehicular access at the site shall be stopped up and abandoned immediately after the new access hereby approved have been brought into use. The footway shall, at the same time as the stopping-up and abandonment, be reinstated to the satisfaction of the Local Planning Authority.

9. No dwelling shall be occupied until the carriageway and footway have been widened and constructed in accordance with the approved drawing 19/012/020 Revision E dated April 2021 and any statutory undertaker's equipment or street furniture located in the position of this footway has been re-sited to provide an unobstructed footway.

10. No dwelling shall be occupied until the vehicle parking spaces have been surfaced, marked out and provided in accordance with the approved plans. The parking spaces shall thereafter be kept available for parking (of private motor cars and/or light goods vehicles) at all times.

11. No dwelling shall be first occupied until the cycle parking for that dwelling has been provided in accordance with the approved drawings and this area shall thereafter be kept available for the parking of cycles at all times.

12. The Arboricultural Assessment and Method Statement by Barrell tree consultancy ref: 19306-AA-CA-27112019 and tree protection measures ref: 19306-BT2 shall be implemented in full and tree protection measures and works carried out in accordance with the Assessment. No changes shall be made to the works unless amendments have been submitted to and approved in writing by the Local Planning Authority and shall include details of any changes to the implementation, supervision and monitoring of all temporary tree protection and any special construction works within any defined tree protection area.

13. All landscape works shall be completed in accordance with the following submitted plans:

    a. Planting specification and Maintenance Schedule supporting plan A,D and E/MO/001 received 07.07.2021;

    b. Landscape Masterplan ref: A,D,E/LM/001/AP rev: B received 07.07.2021;

    c. Location/block/site/ landscape plan received 07.07.2021.

The approved landscaping plan shall be implemented within the first planting season following completion of building operations / first occupation of any new dwelling (whichever occurs first). Any trees, shrubs or hedges planted in accordance with the approved scheme which are removed, die, or become diseased within five years from completion of this development shall be replaced within the next planting season by trees, shrubs or hedges of a similar size and species to that originally approved.

14. No demolition or construction works shall take place outside the following hours, unless otherwise agreed in writing by the Local Planning Authority: 7:30am to 6:00pm Mondays to Fridays; 8:30am to 1:00pm Saturdays; No work shall be carried out at any time on Sundays or Bank Holidays.

15. The development hereby permitted shall be undertaken in accordance with the recommendations of the Ecological Appraisal Version 3 dated 5th May 2021 prepared by J Taylor Ecological Consulting received by the Local Planning Authority on 7th July 2021. The mitigation and enhancement measures described in Section 7 of the assessment shall be implemented in full before the development is brought into use, or in accordance with a schedule to be submitted before the development is brought into use and approved in writing by the Local Planning Authority. Thereafter the measures shall be carried out and retained in accordance with the approved details.

16. The following windows; Flats – north elevation ground and first floor windows and east elevation first floor landing window. Houses – north elevation first floor bathroom windows, west and east elevation ground and first floor windows, shall be fitted with obscure glass in accordance with the Proposed Plans G.A – Dwellings received 7th July 2021 before the dwellings hereby permitted are first occupied. The obscure glazing shall be permanently retained in that condition thereafter.

17. The dwellings hereby permitted shall not be occupied until the hard landscaping of the site has been completed in accordance with a hard landscaping scheme that has first been submitted to and approved in writing by the Local Planning Authority. The hard landscaping scheme shall include details of any boundary treatments (e.g., walls, fences) and hard surfaced areas (e.g., driveways, paths, patios, decking) to be provided as part of the development.

End of Schedule