



Appeal Decision

Site visit made on 10 October 2023

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2023

Appeal Ref: APP/E0345/W/23/3320395

10 Foxhays Road, Reading RG2 8NP

- 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 Shakilur Rahman against the decision of Reading Borough Council.
 - The application Ref 221795, dated 30 November 2022, was refused by notice dated 7 February 2023.
 - The development proposed is described as 'a separate end of terrace 2 story height, 3 bedroom dwelling'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the area,
 - whether it would provide acceptable living conditions for future occupiers of the existing and proposed dwellings, with regard to the provision of private amenity space, and
 - whether the proposal makes adequate provision for affordable housing.

Reasons

Character and Appearance

3. The appeal site contains an existing semi-detached dwelling on a corner plot with a tapering garden to one side. It is in an estate of predominantly semi-detached housing. There are also some short, purpose-built blocks of terraced housing, including at nearby Exwick Square and around Foxhays Ground. Although most of the semi-detached houses have fully hipped roofs, the dwelling on the appeal site has been extended at roof level, creating a gabled roof with rear-facing dormer.
4. The proposed dwelling would have similar proportions to the host dwelling and most of its neighbours. The development would effectively create a short terrace of three dwellings, with a fully hipped roof to either end. While this would be a departure from the predominantly semi-detached housing around the site, the proportions of the building would remain reasonably consistent with the scale and massing of other nearby buildings, including the occasional blocks of terraced housing.

5. The appeal site currently includes a relatively generous garden to one side, which would be subdivided. There would be space in front of both dwellings for car parking, which is a typical arrangement in the locality. There would also be sufficient remaining garden land to maintain a sense of space to the side of the proposed dwelling and around the street corner. Therefore the development would not appear cramped.
6. Undercroft accesses are not a feature of the existing semi-detached housing, but are found on the nearby terraced housing. The entrance to the undercroft would not be excessively large and the layout of fenestration on the front elevation would be similar to that of the host dwelling. There would be some loss of symmetry in terms of the arrangement of window and door openings on the building as a whole, but on the other hand the design would give the building a more balanced appearance at roof level. Given that several of the surrounding dwellings have been subject to a variety of extensions and alterations, the design as a whole would not appear incongruous, nor would it be harmful to the surrounding street scene.
7. Although the rear elevation would be rather blank due to the lack of first floor windows, this part of the building would be largely screened from public view. Therefore this aspect of the design would not cause any material harm to the appearance of the building as perceived from public viewpoints.
8. For the reasons given above, I conclude that the proposal would not be harmful to the character and appearance of the area. It would not conflict with relevant requirements in Policies CC7 and H11 of the Reading Borough Local Plan 2019 (RBLP). These policies, amongst other things, require that development maintains and contributes positively to the character of the area, responding to local context and taking account of factors including layout, plot coverage, space around buildings, compatibility with existing building heights and the arrangement of architectural features.

Living Conditions

9. At present, the appeal site contains a modest garden to the rear of the host dwelling and an additional garden to one side. The rear garden is enclosed by close boarded fencing and some existing outbuildings. It has been reduced in size as a result of an existing single storey rear extension. Although the proposed rear garden boundary would be on a slightly different alignment, its overall extent and shape would remain much the same.
10. Policy H10 of the RBLP requires in summary that dwellings are provided with functional private outdoor space suitable for a range of domestic activities, accessible from building entrances and not compromised by their relationship with other buildings. While the rear garden to the host dwelling is undoubtedly modest, and would remain so, it feels private and is easily accessible from the dwelling. I saw during my site visit that it currently accommodates several of the domestic activities which are listed in Policy H10, including a patio and outdoor seating area, space for drying washing and some children's play equipment.
11. The proposed dwelling would have a more extensive garden area to one side. While this would be more exposed to view from the road, it could be enclosed with suitable landscaping to maintain sufficient privacy and provide a useful outdoor area to meet the needs of future occupiers.

12. The supporting text to Policy H10 includes a guideline that useable private outdoor space should be no less than the gross floor area of the dwelling to which it relates. However, this is referred to as a 'useful guide', rather than a current minimum requirement.
13. Based on figures given on the plans, the garden area for the proposed dwelling would exceed its gross floor area, although that includes less private areas at the front of the plot. The parties disagree as to whether the proposed garden area for the host dwelling would exceed its gross floor area. It appears there would be a shortfall, based on the gross floor area given in the Council's Officer Report, although the appellant's evidence suggests otherwise. It is, however, clear that it would be smaller than other rear gardens along Foxhays Road.
14. Nevertheless, based on my observations on site, the garden to the host dwelling would remain capable of supporting family occupation, given that not all occupiers need or want a large private garden. The dwelling is also located within easy walking distance of a public open space at Foxhays Ground, which would provide a conveniently accessible space for more active recreation and play. Bearing in mind that the supporting text to Policy H10 is presented as a useful guide, rather than a firm, minimum requirement, some flexibility can be applied on a case by case basis. In this particular case, I find that the proposed garden areas for both dwellings would be capable of providing acceptable living conditions for future occupiers.
15. The kitchen window of the proposed dwelling would face towards the rear garden of the host dwelling at close quarters. However, since only a ground floor window is proposed here, mutual privacy could be secured by means of suitable boundary treatment. The tapered layouts of both proposed gardens are a consequence of the site's corner location and would not be so contrived as to prevent creation of a functional outdoor space.
16. For the reasons given above, I conclude that the proposed development would provide acceptable living conditions for future occupiers of the existing and proposed dwellings, with regard to the provision of private amenity space. As such, it would not conflict with relevant requirements in Policies CC8, H10 and H11 of the RBLP. These policies require, amongst other things, that development does not detrimentally impact the living environment of existing residential properties or cause unacceptable living conditions for new residential properties, including with regard to the provision of functional private outdoor space.

Affordable Housing

17. Policy H3 of the RBLP requires that new residential development contributes to the provision of affordable housing. For sites providing 1 to 4 dwellings, a financial contribution is sought, to enable the equivalent of 10% of the housing to be provided as affordable housing elsewhere in the Borough. The Council's Affordable Housing Supplementary Planning Document 2021 (AHSPD) elaborates on the requirements in Policy H3.
18. Paragraph 64 of the National Planning Policy Framework (the Framework) states that provision of affordable housing should not be sought for residential developments that are not major developments. The AHSPD acknowledges this aspect of the Framework, but sets out a local justification for the approach taken in Policy H3. This includes that the scale of need for affordable housing in

the Borough justifies seeking contributions to affordable housing from all sizes of residential development from one dwelling upwards. The AHSPD also confirms that the requirements of Policy H3 were found to be sound in the Inspector's Report on the RBLP in September 2019, notwithstanding similar guidance in a Written Ministerial Statement which was applicable at that time.

19. There is no evidence before me to suggest that the need for affordable housing in the Borough has materially reduced since the RBLP and AHSPD were adopted. The appellant has not suggested that a financial contribution is unjustified. Indeed, he has expressed willingness to make the required payment.
20. Given the above, based on the evidence before me and the circumstances of this particular case, the provisions in Paragraph 64 of the Framework do not indicate that the application should be determined otherwise than in accordance with the development plan. Therefore a financial contribution is required towards provision of affordable housing in accordance with Policy H3.
21. Notwithstanding the appellant's stated willingness to make the required financial contribution, no legal mechanism has been presented to secure its payment. Although evidence from both parties indicates that preparatory work has been undertaken on an associated legal agreement under section 106 of the Town and Country Planning Act 1990, no such agreement was provided in accordance with the appeal timetable. The appellant has been given a further opportunity to submit a completed legal agreement, but none has been forthcoming.
22. Based on the evidence outlined above, I am satisfied that a legal agreement to secure payment of the required financial contribution is necessary to make the development acceptable. I am also satisfied that a legal agreement to that effect would otherwise meet the tests for planning obligations set out in the Framework and the Community Infrastructure Levy Regulations 2010.
23. I have considered whether other mechanisms exist to resolve this issue. However, Planning Practice Guidance makes clear that planning conditions should not be used to require payment of financial contributions. Given the lack of any clear explanation why the legal agreement has not been progressed, there is no certainty that a negatively worded condition requiring its completion would be effective.
24. Therefore, in the absence of the required legal agreement, I conclude that the proposed development would not make adequate provision for affordable housing. This would be contrary to relevant requirements in Policy H3 of the RBLP and to the associated provisions of the AHSPD, as summarised above.

Other Matters

25. The Council has highlighted that similar proposals were refused in 2017, although I note that this was prior to adoption of the current Local Plan in 2019. In any case, it is a well-established principle of the planning system that each proposal should be considered on its merits and that is what I have done.
26. The proposal would make a modest contribution of one dwelling to the supply of market housing and would make more efficient use of the site. There would be a similarly modest economic benefit as a result of the construction process and additional economic activity by future occupiers.

27. The Framework recognises that small sites make an important contribution to meeting housing needs, because they can be delivered quickly. However, the Framework also states that due regard should be had to addressing the needs of different groups in the community, which in this case would include provision for affordable housing. Against this background, the modest benefits arising from the proposal do not outweigh the harm associated with the lack of provision for affordable housing in accordance with the development plan.
28. I have had regard to other matters raised by interested parties and consultees, which include requests for amendment and clarification of the proposed vehicular access arrangements and for permitted development rights to be restricted if permission is granted. However, since I am dismissing the appeal for other reasons, there is no need for me to consider these points further.

Conclusion

29. I have concluded that the proposed development would not be harmful to the character and appearance of the area and would provide acceptable living conditions for future occupiers. However, it would not make adequate provision for affordable housing, and this brings the proposal into conflict with the development plan when considered as a whole.
30. Given the circumstances of this particular case, other material considerations do not indicate that a decision should be made otherwise than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

Jane Smith

INSPECTOR