



Appeal Decision

Site visit made on 5 January 2024

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 26 January 2024

Appeal Ref: APP/W0340/W/23/3324408

218, Cartwheel Cottage, Long Lane, Tilehurst, Reading Berkshire RG31 5UG

- 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 and Mrs Francis Patton against the decision of West Berkshire District Council.
 - The application Ref 22/02933/FUL, dated 21 November 2022, was refused by notice dated 12 June 2023.
 - The development proposed is the erection of a three-bedroom house and covered parking area.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023 and is a material consideration to this appeal. Having considered the revisions to the Framework, as well as the principles of natural justice, together with the nature of the determining issues in this appeal I do not consider it necessary, in this instance, to invite any submissions from the parties on the revised Framework.

Main Issues

3. The main issue is the effect of the proposed development on the living conditions of the occupants of 1 Stoneham Park with particular reference to outlook and overshadowing.

Reasons

4. The proposed dwelling would be located within the existing garden area of the appeal property very close to the common boundary with 1 Stoneham Park (No 1). No 1 is a recently completed dwelling on a new estate of similar properties.
5. The proposed dwelling would be set in by a small distance from the common boundary with this neighbouring property. As a result, the proposal would result in a substantial mass of development with an overall height that would be a considerable margin above the height of the existing boundary fence. No 1 has a square bay window serving the living room in the elevation that faces towards the appeal site. Due to the size of this window, it provides an important outlook from this habitable room. Due to the height and lack of an adequate set in from the common boundary, the proposed dwelling would unacceptably dominate the outlook from this window.

6. Further, the proposed dwelling would be overbearing on the garden of this neighbouring property, it would dominate the garden space nearest to the house and would be detrimental to the living conditions of the residential occupiers of No 1 when using their garden.
7. Moreover, taking account of the orientation and siting of the proposed dwelling relative to the trajectory of the sun and the position of the square bay window serving the living room, the proposal would block sunlight and daylight from this habitable room and would unacceptably overshadow this neighbouring property which would have a harmful impact on the living conditions of the occupants of this neighbouring property.
8. I therefore conclude that the proposed development would have a harmful effect on the living conditions of the occupants of 1 Stoneham Park with particular reference to outlook and overshadowing. Consequently, the proposal would not comply with Policies CS14 of the West Berkshire Core Strategy (2006-2026) Development Plan Document, adopted July 2012 (WBCS) which among other things seeks to make a positive contribution to the quality of life in West Berkshire.
9. The proposal would be at odds with Quality Design – West Berkshire Supplementary Planning Document Series which seeks to ensure that the living conditions of neighbouring residents are not compromised by lack of daylight or unduly restricted outlook. The proposed development would also not comply with the Framework, which seeks to ensure developments create places with a high standard of amenity for existing and future users.
10. In their reasons for refusal, the Council cited Policy CS19 of the WBCS which deals with the Historic Environment and Landscape Character and is therefore not directly relevant to this main issue which deals with the living conditions of neighbouring residents.

Other Matters

11. One of the reasons for refusal related to the fact that no preliminary ecological appraisal had been undertaken and there was insufficient information to determine the impact of the development on biodiversity. Interested parties also raised concerns about this matter.
12. The appellant accepts that an ecological appraisal would be required but has suggested that a condition could be imposed in the event that planning permission was granted. The Council have also now confirmed that this matter could be overcome by a pre-commencement condition. I agree, and if in all other respects the proposal had been acceptable, a suitably worded condition could have been imposed to ensure that any impact that the proposal would have on biodiversity could have been satisfactorily addressed.
13. Similarly, another reason for refusal related to the fact that the Council considered that insufficient information had been submitted about how surface water would be managed in a sustainable manner. However, the Council have also now confirmed that this matter could also be overcome by the imposition of a pre-commencement condition.
14. I note that interested parties have also raised this matter and I accept that insufficient details about the proposed drainage arrangements have been provided. However, this matter is not insurmountable. The appeal site is not

subject to any notable flood risk and is surrounded on two sides by existing residential development including a recently completed housing estate. I have not been provided with any compelling evidence to indicate that appropriate drainage arrangements could not be provided. Consequently, if in all other respects the proposal had been acceptable, a suitably worded condition could have been imposed to ensure that an appropriate sustainable drainage system would have been implemented as part of the proposed development.

15. Planning permission has previously been granted for a dwelling on the appeal site and at the time it was considered, the officer's report highlighted that it would not have an adverse impact on the adjacent new development. Moreover, the appellant highlights that it would appear no consideration has been given to the proximity of the approved dwelling on the appeal site when the new development was approved. They also point out that there has been no opportunity to try and reach a compromise with the Council.
16. I am required to determine the appeal on the basis of the particular circumstances that apply now. The new development has been completed and for the reasons set out above, I have found that the proposed development would harm the living conditions of the occupants of No 1. Although I have taken account of the appellant's concerns about the Council's overall approach and the fact that the proposed dwelling was intended as an investment for the appellant's retirement, these matters have not altered my view on the main issue as set out above and do not justify harmful development at the appeal site.
17. Further, implementation of the previous planning permission could, under certain circumstances, have amounted to a legitimate fallback position that may have attracted significant weight. However, the previous planning permission has now lapsed, and I understand that at the time it expired there were still outstanding pre-commencement conditions that had not been discharged. As a result, based on the available evidence before me, implementation of the previous planning permission does not appear to be a viable option and therefore this matter has not weighed in favour of the proposed development.

Conclusion

18. For the reasons given above, the proposal would be harmful to the living conditions of the occupants of 1 Stoneham Park with particular reference to outlook and overshadowing. Overall, I conclude that the proposed development would conflict with the development plan taken as a whole and there are no material considerations which indicate that the decision should be made otherwise than in accordance with the development plan. Therefore, the appeal should be dismissed.

S Rawle

INSPECTOR