



Appeal Decision

Site visit made on 20 February 2024

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 April 2024

Appeal Ref: APP/H1705/W/23/3322481

Old House At Home, Station Road, Overton RG25 3DU

- 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 Red Oak Taverns Limited against the decision of Basingstoke and Deane Borough Council.
 - The application Ref 19/02184/FUL, dated 02 August 2019, was refused by notice dated 10 March 2023.
 - The development proposed is the erection of 2, three-bedroom, semi-detached dwellings (Use C3) on land adjacent to the existing Public House, utilising the existing vehicular access with associated parking, landscaping and pedestrian access, with associated parking, landscaping and pedestrian accesses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the lodging of the appeal a revised National Planning Policy Framework (Framework) has been published. The main parties have been invited to submit representations in respect of it, and responses have been considered in reaching this decision.

Main Issues

3. The main issues are;
 - whether future occupiers of the development would be able to secure adequate living conditions, with particular regard to outdoor space; and the effect of the development on;
 - the living conditions of the occupiers of nearby dwellings on the opposite side of Station Road from the appeal site, with particular regard to outlook and light;
 - the character and appearance of the area; and
 - the viability and quality of the community facility provided by the public house that occupies the appeal site, with particular regard to its gardens.

Reasons

Living conditions – future occupiers

4. Key design principles RA1, RA2, and RA3 of the Basingstoke and Deane Design and Sustainability Supplementary Planning Document dated July 2018 (the SPD) identify minimum standards for outside spaces associated with new housing. Notwithstanding this, 10.7 of the SPD confirms that variations to these requirements may be permitted where justified. While at 10.7i, it is

indicated that back garden depths of less than 10m may be acceptable, this is only where, amongst other things, it would not result in harm to other aspects of amenity.

5. The properties would incorporate reasonably sized outside amenity spaces. However, land to the front of the houses would not be private, and albeit fairly secluded, the gardens to the rear would have split levels.
6. Although there would be only limited shadowing of the rear gardens at mid-afternoon in the summer months, throughout the morning and in the early evening and beyond, a large proportion of these spaces would be in shadow from either the proposed houses or the tall and thick band of trees and shrubs adjacent to the site boundary closest to Lambs Close. Moreover, I have no reason to doubt that the extent of shadowing of the rear gardens would be increased during the non-summer months when the sun is lower in the sky.
7. Albeit level, a significant amount of the narrow paving areas would be formed between the rear walls of the houses and retaining structures. As such they would be more akin to passageways than to areas that would appeal to future occupiers for outside recreation and leisure purposes.
8. My attention has not been drawn to any specific policy or guidance requiring gardens to be level, and I do not doubt that recreational activities such as sitting out, gardening, outside play, and drying clothes would be possible within the rear gardens. However, given the limited depth, extent of shadowing, and sloping nature of the majority of the proposed rear gardens, such areas would provide poor-quality spaces for such purposes.
9. Even if the depths of the gardens were deemed to be appropriate to the character of the wider area, this consideration would not lead me away from my previous findings.
10. For the reasons given, the proposed development would fail to provide adequate living conditions for future occupiers, with particular regard to outdoor space. In respect of this main issue, it would conflict with policy EM10 of the Basingstoke and Deane Local Plan (2011-2029) – dated 2016 (the Local Plan), where it seeks to ensure a high-quality of amenity is provided for occupants of developments, having regard to issues including amenity space.

Living conditions – occupiers of nearby dwellings

11. The closest dwellings on the opposite side of Station Road to the proposed houses, contain clear-glazed windows at both ground and first-floor levels which face the appeal site.
12. The outlook currently available to the occupiers of the dwellings from these windows include; the grassed garden to the side of the public house; the trees and shrubs to the rear of it; the grass bank between the pavement and the garden; and the intervening pavements and carriageway. Despite the use of the garden as part of the public house; the low picket fencing to its roadside boundary; and the presence of children's play equipment and outside seating within it, occupiers of these dwellings can secure a pleasant 'green' and generally open outlook from those rooms with appeal site facing clear-glazed windows.

13. Notwithstanding the relatively small separation distances between some opposing dwellings in the area, the proposed houses will become the dominant feature in the outlook from the ground-floor road-facing rooms of the dwellings directly opposite. Such development would change, and albeit to a limited extent, have an enclosing effect, that would reduce the quality of the outlook available to the occupiers of the houses directly opposite the proposed dwellings.
14. Shadows resulting from the development would extend close to the fronts of the houses on the opposite side of Station Road during the summer. It is therefore reasonable to conclude that during at least parts of the morning at other times of the year, rooms within houses opposite the appeal site which have windows facing it, would be overshadowed by the development to some extent. Nevertheless, it has not been suggested that these dwellings would not continue to receive some direct sunlight in at least one habitable room in all months of the year, which is a requirement of 10.15 of the SPD. Nor given the distance between the proposed houses and the dwellings opposite, can I conclude that occupiers would suffer a harmful loss of daylight. For these reasons, the development would not cause levels of shadowing or loss of daylight that would be harmful to the living conditions of the occupiers of the dwellings opposite.
15. Although the proposed development would not cause harm to the living conditions of the occupiers of nearby dwellings on the opposite side of Station Road from the appeal site, with respect of light, it would cause harm in respect of outlook. Consequently, the development would conflict with policy EM10 of the Local Plan which requires development to respect the amenities of neighbouring properties, and to provide a high quality of amenity for occupants of developments having regard to issues such as outlook.
16. Policy LBE1 of the Overton Neighbourhood Development Plan 2016-2029 – dated 2016 (the NDP), primarily relates to landscape, the built environment, and local distinctiveness. Although also requiring the village design statement, the Overton Conservation Area appraisal, and the CABI building for life standards to be taken into account, in respect of this main issue, conflict with this policy has not been demonstrated.

Character and appearance

17. The appeal site which is currently occupied by a public house and associated gardens and outside spaces, is located outside of the Overton Conservation Area (CA), but within a built-up part of the village. The character and appearance of the area is varied. There are traditional and relatively simply detailed dwellings often forming part of terraces, on the opposite side of Station Road from the appeal site, which are within the CA. By contrast, the appeal site and nearby land and development on the same side of Station Road as it, are much more varied in terms of their type, form, scale, and appearance. Buildings are also set back from the road by varying amounts.
18. The construction of a pair of semi-detached houses on the appeal site would increase the density of development in the area. However, a good-sized gap would remain between the proposed building and the public house. Moreover, although a stretch of grass bank to the rear of the pavement would be lost, the sizable green open space that fronts Station Road on the other side of the appeal site would be unaffected by the development. Therefore, and given the

dense frontage of buildings on the opposite side of Station Road, the development would not have a contrived or cramped appearance, when viewed from either Station Road or nearby properties. Nor, in respect of this main issue, and for the same reasons, would it constitute overdevelopment.

19. The partial excavation of the site would enable the houses to be constructed on land of a similar level to that of the adjacent road. It would also prevent these houses from being substantially taller than the nearby buildings opposite it. Moreover, the houses would be sited such that they would be in general alignment with the public house building - which is not separated from the road by a green buffer. Consequently, the development would not be prominent within the local street scene.
20. For these reasons, the development would not cause harm to the character and appearance of the area. In respect of this main issue, it would comply with policies EM10 of the Local Plan and LBE1 of the NDP. Amongst other things, these policies require development to be high quality, to conserve or enhance the built environment, to positively contribute to local distinctiveness, and to be visually attractive. It would also conform with an objective of the SPD to support the achievement of high-quality sustainable development, which responds positively to the context.

Ongoing use and quality of the community facility

21. Policies CN7 of the Local Plan and CS1 of the NDP seek to prevent development that would result in the loss of or be detrimental to essential facilities and services that meet community needs. The supporting text for policy CN7 confirms that essential facilities and services include pubs. Local Plan policy CN8 is supportive of proposals that would lead to the retention and maintenance of existing community facilities that are valued by the community.
22. From the evidence and my observations on site, the public house that occupies the appeal site is operational. Albeit relatively small, there is a good amount of customer seating upon the covered terrace, which forms one of the 2 main outside seating areas on the premises. Furthermore, and at a similar level, this terrace area can be accessed directly from both the pub building and the off-street car parking to the front. There is also a second larger grassed garden area to the side of the pub. At the time of my site visit, this garden area contained a few 'picnic benches' and some children's play equipment. I observed nothing to indicate that this area was disused or no longer in use as part of the community facility.
23. In addition to these outside seating areas; a parking area; a small service yard; and other small areas of hardstanding, the appeal site contains a rear garden area. It has not been suggested that this area has been used by customers of the public house. Instead, it is somewhat overgrown and unkempt, containing, amongst other things, an old greenhouse and an oil tank.
24. The indoor and outdoor spaces which together form part of the public house comprise a single community facility. Although the implementation of the proposed development would result in the loss of an existing garden area that forms part of this facility, an alternative albeit smaller outside seating area/garden to the rear of the building would be provided for customer use.

25. This replacement garden area is sufficiently size to accommodate a reasonable number of tables and seating. Furthermore, the screening of the oil tank; the clearing and tidying up of this area; and the provision of post and rail fencing on top of an existing retaining wall between the garden and the passage below, would all improve the appearance of this space. Especially during times of good weather, these enhancements would make this garden space more appealing to users of the pub.
26. Access to the existing side garden is via a narrow and sloping path after crossing either a parking area or a service yard adjacent to the building. As such, it is not easily accessible for all. Although stepped access would also limit the accessibility of the proposed rear garden/seating area, it is closer to the host building, than the side garden it would replace. Furthermore, the terrace area would remain unaffected by the development proposals. Users of the public house would therefore continue to have access to an area of outside space that has better accessibility than either the existing grassed area or the proposed replacement garden. As such, if the proposed development were implemented, the public house would continue to have a good amount and standard of outside space for use by customers.
27. For these reasons the proposed development would not cause harm to the viability or quality of the community facility provided by the public house which occupies the appeal site, with particular regard to its gardens. Consequently, it would comply with policies CN7 and CN8 of the Local Plan, and policy CS1 of the NDP.

Other Matters

28. The adopted Local Plan is more than 5 years old. As such, neither paragraph 76 of the Framework nor the transitional arrangements relating to its application, are relevant in the determination of this appeal.
29. The main parties agree that the Council is unable to demonstrate a five-year supply of deliverable housing sites, in line with the Framework. However, the Council has indicated that it has a 4.2-year housing land supply. This has not been disputed by the appellant.
30. The Council also has an emerging Local Plan¹ which has reached Regulation 18 stage. This plan contains proposed housing allocations towards meeting housing need, as well as a proposals map. Therefore, and notwithstanding that the application was made before the publication of the current Framework, footnote 8 of this same document does not apply, and it is not necessary to consider the appeal against Framework paragraph 11 d).
31. The development would contribute towards the Government's objective of significantly boosting the supply of homes. Benefits would also result from the creation of houses in a built-up location with good access to a range of services and facilities, which would contribute towards meeting the Borough-wide need for smaller 2 and 3-bedroom dwellings. In addition, the development would contribute to the local economy and help to support a strong, vibrant, and healthy community. However, given the small scale of the scheme, the weight that can be attributed to these benefits is limited.

¹ Basingstoke and Deane Local Plan Update 2021 to 2040 – Draft for Regulation 18 Consultation January 2024

32. I accept that the implementation of the development would release the operator of the public house from the associated costs of the ongoing maintenance of the side garden area. However, the effect of this has not been qualified, and as such only extremely limited weight is attributed to this benefit.
33. Even if the development would not lead to a harmful reduction in the level of privacy available to the occupiers of the houses opposite the appeal site, this is a neutral consideration.
34. The appeal site is within the zone of influence of several Special Areas of Conservation (SAC's) and Special Protection Areas (SPA's) within the Solent area. However, there is no need to further consider the implications of the proposal on these protected sites because the scheme is unacceptable for other reasons.

Conclusion

35. The proposed development would not cause harm to the character and appearance of the area or to the viability or quality of a community facility. Notwithstanding this, future occupiers of the development would not be able to secure adequate living conditions, with particular regard to outside space, and harm would be caused to the living conditions of the occupiers of nearby dwellings. As such the development would conflict with the development plan when taken as a whole.
36. There are no material considerations, either individually or in combination, that outweigh the harm and associated development plan conflict. I therefore conclude that this appeal should be dismissed.

V Simpson

INSPECTOR