



Appeal Decision

Site visit made on 17 April 2024

by E Pickernell BSc MSC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 June 2024

Appeal Ref: APP/W0340/W/23/3321739
12 - 16 Chapel Street, Thatcham RG18 4QL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr T Young of Young Estates and Land Ltd against the decision of West Berkshire District Council.
 - The application Ref is 21/01698/FULMAJ.
 - The development proposed is partial demolition of existing dwellings (14 & 16 Chapel Street) and construction of 9No. one bedroom apartments and 2No. two bedroom houses, including parking and stores.
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Decision

1. The appeal is allowed and planning permission is granted for partial demolition of existing dwelling (16 Chapel Street) and construction of 9No. one bedroom apartments and 2No. two bedroom houses, including parking and stores at 12 - 16 Chapel Street, Thatcham RG18 4QL in accordance with the terms of the application, Ref 21/01698/FULMAJ, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. Since the determination of the application the Government published a revised National Planning Policy Framework (the Framework) in December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach. Where I have referred to the provisions of the Framework below, I have done so with numbering from the revised version.
3. Although the description of development refers to the partial demolition of existing dwellings (14 and 16) Chapel Street, the submitted drawings and documents clearly indicate that 14 Chapel Street would be retained, and I have determined the appeal on this basis. I have corrected the description of development in my formal decision above.
4. I have had regard to the previous appeal decision for a different proposal at the appeal site¹. However, I have determined the appeal based on the evidence before me and on its own merits.

¹ APP/W0340/W/20/3251653

Main Issues

5. The main issues are:

- Whether the proposal would provide acceptable living conditions for the future occupiers of 12 and 14 Chapel Street (Nos. 12 and 14) with regard to garden space;
- the effect of the proposal on the living conditions of the occupiers of the neighbouring care home with regard to outlook;
- whether the proposal would provide acceptable living conditions for the future occupiers of the proposed flats (plots 3-11) with regard to daylight and outlook; and
- whether the proposal makes adequate provision for renewable or low/zero carbon energy generation.

Reasons

Living conditions of occupiers of Nos. 12 and 14

6. The proposal involves the demolition of a terraced property which front Chapel Street (No. 16) and the provision of garden areas to the rear of the adjacent dwellings (Nos. 12 and 14). I noted at my site visit that the demolition and the laying out of the gardens has already been carried out.
7. The Council's Quality Design Supplementary Planning Document, Part 2 Residential Development states that as a general guide, 1 and 2-bedroom houses should have garden areas from 70 sqm.
8. Based on the evidence before me, prior to these works being carried out, the occupiers of nos. 12 and 14 did not benefit from private outdoor amenity space. The garden areas which have been provided are modest in size and fall below the suggested 70 sqm. However, the guidelines are expressed as a suggestion, making it clear that it is the quality of outdoor space that matters most. The gardens are sufficient to provide an area to sit out, dry clothes and store bins and bikes. The proposal therefore represents an improvement over the pre-existing situation in terms of living conditions for the occupiers of these dwellings, despite falling below the size suggested by the SPD.
9. The Council have referred me to an appeal at 61 Russell Road, Newbury² where the Inspector found gardens below the suggested size to result in inadequate living conditions for future occupiers. However, this related to proposed dwellings, as opposed to existing dwellings which did not previously benefit from private garden areas. As such the circumstances of the appeal are materially different to that which is before me.
10. Consequently, the proposal would provide acceptable living conditions for the future occupiers of 12 and 14 Chapel Street (Nos. 12 and 14) with regard to garden space. It therefore complies with Policy CS14 of the West Berkshire Core Strategy 2006-2026 (Adopted July 2012) (WBCS) and relevant paragraphs of the Framework which seeks to ensure that development proposals make a positive contribution to quality of life.

² APP/W0340/W/22/3294504

Living conditions of the occupiers of the neighbouring care home

11. The side elevation of an existing care home faces the appeal site. This contains several windows from which the proposed block of flats, which would be located towards the rear of the site, would be visible. There would be a relatively close relationship between the two buildings at the closest point. However, the proposed building would be angled away from the boundary and therefore the gap between the two buildings would widen significantly towards the rear of the site. As such the overall aspect from these windows would remain relatively open.
12. Furthermore, the west elevation of the building would be stepped which would break up the visual mass when viewed from the care home windows. Therefore, the proposal would not be overly dominant or oppressive in the outlook from these windows. I acknowledge that the outlook from their bedroom windows is likely to be very important to the residents of the care home. However, although the building would undoubtedly be visible and the outlook would change, the proposal would not result in unacceptable living conditions for the residents.
13. I conclude that the proposal would have an acceptable effect on the living conditions of the occupiers of the neighbouring care home. It therefore complies with Policy CS14 of the WBCS and relevant paragraphs of the Framework which seek to ensure that development proposals make a positive contribution to quality of life.

Living conditions of future occupiers of proposed flats

14. The proposed block of flats would contain nine dwellings, three on each floor. The layout of the proposed flats would be such that the first-floor balconies would be located above some of the windows of the ground floor flats. In most cases the affected rooms would have one or more additional window which would allow light to enter the room from windows which would not have balconies above them. The proposed ground floor flat in the northwestern corner of the building would have a balcony above both windows which would serve the open plan living area. However, the balconies would be relatively narrow in depth and the main window to the living area would be full height and a generous width. Therefore, even though some of the affected windows are north-facing, I am satisfied that a satisfactory amount of daylight would be able to enter these rooms.
15. Although not forming part of the reasons for refusal the Council contends that the outdoor amenity space for the ground floor flats is of low quality. The balconies would be located above the proposed patio areas for the ground floor flats. However, they would not fully cover these areas and they would be pleasant places to sit out with outlook to the shared garden beyond. The patio to the west of the building would be adjacent to the side window of another flat. However, were I to allow the appeal I could attach a condition requiring this window to be obscurely glazed which would ensure privacy for this patio.
16. The second-floor flats would be served only by rooflights. However, these would be positioned relatively close to the eaves of the building and as such their positioning within the rooms which they would serve would be similar to a traditional casement window in a vertical wall. Views from within the proposed flats would be possible from these roof lights and future residents would have

an acceptable outlook from the living areas and bedrooms. Although some of the rooms would be relatively deep and some would be north facing, most of the rooflights which serve them would be generous in size. I am satisfied that these would allow sufficient light to enter the rooms such that the scheme would provide acceptable living conditions for future residents in respect of daylight.

17. I conclude that the proposal would provide acceptable living conditions for the future occupiers of the proposed flats (plots 3-11) with regard to daylight and outlook. It therefore complies with Policy CS14 of the WBCS and relevant paragraphs of the Framework which seek to ensure that development proposals make a positive contribution to quality of life.

Renewable or low/zero carbon energy generation

18. Policy CS15 of the WBCS sets out ambitions relating to sustainable construction and energy efficiency. With regard to major residential development, the policy requires zero carbon energy generation on site or in the locality of the development as long as a direct physical connection is used, unless it can be demonstrated that such provision is not technically or economically viable.
19. The application was accompanied by a viability appraisal which concluded that the proposal would result in a deficit. Although the viability appraisal was prepared some time ago, there is no substantive evidence before me which demonstrates that the conclusions are incorrect. The appellant contends that the increased build costs associated with delivering the requirements of the Policy CS15 would make the proposal undeliverable. No further detailed appraisal has been provided which demonstrates the effect that the provision of zero carbon technology would have on the overall deliverability of the proposal, including the effect on the projected sales values of the proposed dwellings. However, it is reasonable to assume that it would increase build costs and that the resultant deficit would be unlikely to be recouped by any potential increase in property values.
20. In any event, in a written ministerial statement on local energy efficiency standards on 13 December 2023 which post-dates the adoption of the WBCS the Government set out that it does not expect plan-makers to set local energy efficiency standards for buildings that go beyond current or planned building regulations, as the proliferation of multiple local standards can add further costs to building new homes by adding complexity and undermining economies of scale.
21. I conclude that although the proposal does not make provision for renewable or low/zero carbon energy generation it would not conflict with Policy CS15 of the WBCS which allows a consideration of viability.

Other Matters

22. I am aware that the appeal site is near to Grade II listed 2 Chapel Street³, 17 Chapel Street⁴ and Barn approximately 5 metres to northwest of No 2 Chapel Street⁵. Mindful of the statutory duty set out in s66(1) of the Planning (Listed

³ List Entry Number: 1155758

⁴ List Entry Number: 1117284

⁵ 1319521

Buildings and Conservation Areas) Act 1990, I have had regard to the desirability of preserving their setting.

23. The building at 17 Chapel Street occupies a prominent position adjacent to the pavement. It is a characterful, rendered building with a half-hip roof and front gable dormers. The appeal site is located to the northwest of the site on the opposite side of Chapel Street. The buildings which line Chapel Street, including those at the front of the appeal site contribute to its setting, and thereby its significance and understanding as a heritage asset. Although the proposal involves the demolition of one of the three frontage properties within the appeal site and the widening of the opening, the presence of frontage buildings would still be a feature of the site. Furthermore, Chapel Street itself and several buildings intercede between the appeal site and 17 Chapel Street and as such the proposal would not detract from its setting.
24. The buildings comprising 2 Chapel Street, a rendered building adjacent to the pavement and the brick and tile barn to its northwest are located to the west of the appeal site, near to the junction of Chapel Street and Thatcham Court. Although the appeal site is some distance from these buildings, because of the presence of the existing buildings located prominently adjacent to the pavement, on approach to the listed buildings, it contributes positively to their setting and thereby, their significance. Although the loss of 16 Chapel Street, has changed the approach to the listed buildings, the remaining buildings still provide a strong presence on Chapel Street and as such the proposal would not detract from their setting.
25. Concerns have been raised in relation to the character and appearance of the area. The appeal site is some distance from the conservation area and numerous buildings intervene between its boundary and the appeal site. I am therefore satisfied that the proposal would not be harmful to the setting of the conservation area.
26. I noted at my site visit that No. 16 has been demolished. Nos. 12 and 14 would be retained. Although the proposed buildings would be visible through the access, and despite the relatively large scale of the proposed block of flats, in comparison with the frontage buildings, they would be set well back from the frontage of the site. Consequently, the most prominent element of the site when viewed from Chapel Street would be the retained terraced dwellings. Although the access would be widened and one building would be lost, the overall contribution of the development to the street scene would be similar to the existing situation. As such the proposal would not result in a harmful impact upon the character and appearance of the area.
27. I note the concerns which have been raised about the potential impact on the living conditions of occupiers of neighbouring properties with regard to overlooking and overshadowing. Whilst the proposed buildings would undoubtedly be visible from neighbouring properties, there would be sufficient distance between the existing and proposed buildings to ensure that there would be no significant impact upon the living conditions of neighbouring occupiers by way of overlooking or overshadowing.
28. Whilst the proposal would result in an increase in vehicles accessing the site, the entrance would be widened to ensure that there would be adequate visibility. Consequently, there would be no unacceptable increase in highway danger for drivers of vehicles, cyclists, pedestrians or other users of the

highway. Given the availability of goods and services within walking distance of the site I am satisfied that the proposed parking provision is adequate. I note that the Highway Authority did not object to the proposal.

29. There is no clear evidence before me which demonstrates that the proposal would result in unacceptable levels of noise and pollution in the area or would be harmful to wildlife. Furthermore, I have no reason to assume that the proposal would result in damage to fences, give rise to an increase in criminal activity locally or result in a build-up of rubbish. If I were to allow the appeal, I could impose a condition requiring the submission of a drainage strategy in order to avoid an unacceptable increase in surface water.
30. I acknowledge that the proposal would not result in the provision of affordable housing, however based on the evidence before me, it has been demonstrated that this would not be possible on viability grounds. I note that the Council has accepted this and that this does not form a reason for refusal.

Conditions

31. I have undertaken some minor editing and rationalisation of the conditions proposed by the Council in the interests of precision and clarity. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interests of certainty.
32. Conditions requiring details of materials and the provision of hard and soft landscaping schemes are necessary to ensure that an acceptable appearance is achieved (3, 6 and 7). A condition (8) is also necessary to ensure that retained trees are protected during construction.
33. Conditions requiring the provision of parking and turning areas and cycle parking/storage are necessary in the interests of highway safety and to facilitate the use of non-car modes of transport (4 and 5).
34. Conditions requiring the provision of obscure glazing to side-facing windows and the screening of balconies are necessary to avoid unacceptable overlooking of adjacent properties (9 and 11). Condition (10) is necessary to ensure that surface water is suitably managed. A condition requiring the provision of bin and recycling stores is also necessary in the interests of proper waste management (12). Given the relatively close proximity of the site to residential properties and a care home a condition controlling the hours of work on the site is necessary (13).
35. The Council suggests conditions requiring the provision of a Construction Method Statement and dust mitigation to safeguard amenity, prevent nuisance and in the interests of highway safety. However, there is sufficient room within the site for construction vehicles to turn in order to allow them to enter and exit the site in a forward gear and the access has good visibility. Furthermore, given the relatively small scale of the development and the size of the site the construction phase is unlikely to result in significant adverse effects on the occupiers of neighbouring properties as a result of dust. Therefore, I do not consider such conditions to be necessary.
36. The submitted site survey drawing demonstrates that the site is relatively flat and as such I do not consider a condition requiring the submission of existing and proposed ground levels to be necessary.

37. The new dwellings would be set back from the highway, behind frontage development and there is no reason to consider that occupiers would experience unacceptable levels of road noise. As such I do not consider a condition requiring the submission and implementation of a noise mitigation scheme to be necessary.
38. A condition requiring the provision of electric vehicle charging points has been suggested however this is now a requirement of the Building Regulations and is therefore unnecessary.
39. Conditions removing permitted development (PD) rights have been suggested. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national PD rights unless there is clear justification for doing so. In this case I see no such justification and therefore these conditions would not be reasonable or necessary.
40. The matter of renewable or low/zero carbon energy generation has been assessed within the main issues above. As explained, it is not expected that local energy efficiency standards are set that go beyond current or planned building regulations. As such, I consider that a condition requiring the submission of a Sustainability and Energy Statement is unnecessary.
41. A condition requiring the submission of an Employment Skills Plan (ESP) has been suggested. Whilst I acknowledge that the Framework seeks to ensure that large scale development provides sufficient access to employment opportunities, I have not been directed to any specific policy requirement in this regard. Given the relatively small scale of the development I am not convinced that such a condition is necessary.

Conclusion

42. For the reasons given above, I conclude that the proposal would accord with the development plan, when read as a whole, and the Framework. The material considerations do not indicate that a decision should be made other than in accordance with the development plan. Therefore, the appeal is allowed.

E Pickernell

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun not later than three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 13.377.LP.001, 13.377.P2.001E, 13.377.P2.012B, 13.377.P2.100F, 13.377.P2.003, 13.377.P2.005A, 13.337.P2.220C, 13.377.P2.120F, 13.377.P2.121A.
- 3) No development above ground shall take place until details of the materials to be used in the construction of external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

- 4) Prior to the first occupation of the development hereby approved the vehicle parking and turning spaces shall be completed and marked out in accordance with drawing 13.377.P2.001E. The parking and turning areas shall thereafter be kept available at all times for the purposes of parking and turning.
- 5) Prior to the first occupation of the development hereby permitted cycle parking/storage shall be provided in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter the facilities shall be maintained and kept available for the purposes of the parking/storage of cycles at all times.
- 6) Prior to the first occupation of the development hereby permitted a hard landscaping scheme shall be implemented in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority. This shall include details of all proposed boundary treatments and hard surfaced areas.
- 7) Prior to the first occupation of the development hereby permitted, a soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The soft landscaping scheme shall include detailed plans, planting and retention schedule and programme of works. All soft landscaping works shall be completed in accordance with the approved scheme within the first planting season following the completion of building operations or the first occupation of any new dwelling (whichever occurs first). Any trees, shrubs, plants or hedges planted in accordance with the approved scheme which are removed, die, become diseased or become seriously damaged within five years of the completion of the approved soft landscaping scheme shall be replaced within the next planting season by trees, shrubs or hedges of a similar size and species to that originally approved.
- 8) No development (including site clearance and any other preparatory works) shall commence on site until a scheme for the protection of trees to be retained is submitted to and approved in writing by the Local Planning Authority. The scheme shall include a plan showing the location of the protective fencing and shall specify the type of protective fencing. All such fencing shall be erected prior to any development works taking place. It shall be maintained and retained for the full duration of works or until such time as agreed in writing with the Local Planning Authority. No activities or storage of materials whatsoever shall take place within the protected areas without the prior written agreement of the Local Planning Authority.
- 9) Prior to the occupation of the flats within the block containing units 3-11, the windows at ground and first floor level in the east and west elevations of the block shall be fitted with obscure glass. The obscure glazing shall thereafter be permanently maintained.
- 10) 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. Any soakage testing should be undertaken in accordance with BRE365 methodology;
- c) Include details of how the existing flood plain will be sustained or mitigated (any measures for loss of flood plain shall not increase flood risk elsewhere)
- d) Include a drainage strategy for surface water run-off from the site since no discharge of surface water from the site will be accepted into the public system by the Lead Local Flood Authority;
- e) Include construction drawings, cross-sections and specifications of all proposed SuDS measures within the site;
- f) Include run-off calculations, discharge rates, infiltration and storage capacity calculations for the proposed SuDS measures based on a 1 in 100 year storm +40% for climate change;
- g) Include flood water exceedance routes, both on and off site; Include flow routes such as low flow, overflow and exceedance routes;
- h) Include pre-treatment methods to prevent any pollution or silt entering SuDS features or causing any contamination to the soil or groundwater;
- i) Ensure any permeable paved areas are designed and constructed in accordance with manufacturers guidelines.
- j) Include details of how the SuDS measures will be maintained and managed after completion. These details shall be provided as part of a handover pack for subsequent purchasers and owners of the property/premises;
- k) Include with any design calculations an allowance for an additional 10% increase of paved areas over the lifetime of the development;
- l) Provide details of how surface water will be managed and contained within the site during any construction works to prevent silt migration and pollution of watercourses, highway drainage and land either on or adjacent to the site;
- m) Provide a verification report carried out by a qualified drainage engineer demonstrating that the drainage system has been constructed as per the approved scheme (or detail any minor variations thereof), to be submitted to and approved by the Local Planning Authority on completion of construction. This shall include: plans and details of any key drainage elements (surface water drainage network, attenuation devices/areas, flow restriction devices and outfalls) and details of any management company managing the SuDS measures thereafter.

Thereafter the development shall be carried out in accordance with the approved details, and no dwelling shall be first occupied until the drainage measures have been completed.

- 11) Prior to the occupation of the flats within the block containing units 3-11, balcony screens shall be installed in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority. The screens shall be retained thereafter.
- 12) Prior to the first occupation of the development hereby approved, provision shall be made for the storage of refuse and recycling materials, in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter the refuse and recycling storage shall be retained for this purpose.
- 13) No demolition or construction works shall take place outside the following hours:
 - 07:30 to 18:00 Mondays to Fridays
 - 08:30 to 13:00 Saturdays

No demolition or construction work shall be carried out at any time on Sundays or Bank Holidays.

End of Schedule