



Appeal Decision

Site visit made on 3 September 2024

by **Stephen Hawkins MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 September 2024

Appeal Ref: APP/E0345/C/23/3335151

Land at 1 Hawk Cottages, Reading RG1 2SX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Miss Violet Lawrence against an enforcement notice issued by Reading Borough Council.
 - The notice was issued on 22 November 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of 2 dwelling houses within the curtilage of No. 1 Hawk Cottages.
 - The requirements of the notice are: (i) Cease to use the land for residential purposes as self-contained units of accommodation (dwellings) and as commercial lettings; (ii) Disconnect both buildings from any gas or electric and water supplies to them; (iii) Dismantle both buildings on the land including any basement, slab foundation, drainage and domestic wastewater systems (if relevant); (iv) Dismantle all outbuildings on the land including any slab foundation, and connections to them (if relevant); (v) Remove any hardstanding introduced for each dwelling from the land; (vi) Remove any structures (posts, garden beds) placed within the curtilage of each building;
 - (vii) Remove all materials associated with the dismantling of buildings from the land to an appropriate place of disposal; (viii) Restore the ground where both buildings were situated by infilling the ground with materials (gravel and soil) and install an appropriate layer of topsoil over and seed as a grass surface (or import turf) to reinstate the curtilage as lawned garden. (ix) Remove all enclosure fencing (including gated access) which served to screen and form curtilage to each building.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (c) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matter

2. This Decision takes into account the revised National Planning Policy Framework, published on 19 December 2023.

Ground (c) appeal

3. The ground of appeal is that the matters stated in the enforcement notice do not constitute a breach of planning control. The onus is on the appellant to show why their appeal should succeed on this ground, the relevant test of the evidence being on the balance of probability.
4. 1 Hawk Cottages (No 1) is a two storey, end of terrace dwelling. Four single storey structures have been erected in the grounds at the front and side of

No 1. The structure at 1A Hawk Cottages (No 1A) provides self-contained residential accommodation, with a living area, fitted kitchen and WC on the ground floor and a bedroom with an ensuite bathroom and WC on the lower ground floor. Abutting the side elevation of No 1 is a smaller structure (outbuilding A). This is used as a utility room for No 1A and contains a washing machine, sink and drainer, a worktop and fitted cabinets. The structure at 1B Hawk Cottages (No 1B) provides self-contained residential accommodation with a living and sleeping area, along with a fitted kitchen and a shower room/WC. The second smaller structure (outbuilding B) is used as a utility room for No 1B and contains similar facilities to its counterpart at No 1A.

5. Erecting the above structures has involved undertaking building operations, falling within the definition of development set out in s55(1) of the Act. Planning permission is required for the carrying out of any development of land, having regard to the Act at s57(1).
6. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) at Article 3, Schedule 2, Part 1, Class E grants planning permission for the provision within the curtilage of a dwelling of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, where the relevant size and locational limitations in paragraphs E.1 to E.3 are also met.
7. Nevertheless, Nos 1A and 1B each have the distinctive characteristic of a dwellinghouse, as they both contain the facilities required for day-to-day private existence. In the context of Part 1, Class E of the GPDO, an 'incidental' purpose is one which is secondary to but is not itself a dwellinghouse use. The Government's Technical Guidance¹ confirms that a purpose incidental to a dwelling does not cover normal residential uses, such as separate self-contained accommodation or primary living accommodation such as a bedroom, bathroom, or kitchen. There is no firm evidence of Nos 1A and 1B having been erected other than for the purpose of providing primary living accommodation. Outbuildings A and B are part and parcel of the use of Nos 1A and 1B respectively as dwellinghouses.
8. In any event, No 1B and outbuilding B are situated on land forward of the wall forming the principal elevation of the original dwelling and thus do not meet the limitation in paragraph E.1(c) of Class E. Also, outbuilding A is functionally related to the use of No 1A and so cannot be an enlargement of the original dwelling for the purposes of Part 1, Class A of the GPDO.
9. Consequently, none of the structures benefit from the planning permission granted by the GPDO. No express planning permission has been granted for the structures following the submission of a planning application. The definition of a breach of planning control in s171A(1) of the Act includes carrying out development without the required planning permission.
10. Therefore, the appellant has been unable to show that the matters stated in the notice are not in breach of planning control. The available evidence shows otherwise. The ground (c) appeal fails.

Ground (a) appeal

Main Issues

11. The main issues in this ground of appeal are:

- The effect of the development on the character and appearance of the surrounding area.

¹ Permitted development rights for householders: Technical Guidance MHCLG 2019.

- Whether there are suitable living conditions for the existing and future occupiers of Nos 1A and 1B, having regard to privacy and the provision of outdoor amenity space.
- The effect on the living conditions of the existing and future occupiers of No 1, having regard to privacy.

Reasons

Character and appearance

12. No 1 forms part of a short terrace of properties of traditional character and external materials which occupy a secluded location set back from the street in an established residential area. Development in the vicinity includes a great number of two storey terraced properties, not dissimilar to No 1 and its neighbours in terms of their age, architectural style and external materials. However, there are also a number of larger scale modern flatted developments of varying design and external materials present. For the most part, properties in the locality are either arranged in neat rows fronting the street or grouped around cul-de-sacs and courtyards. The above all contributes to the somewhat varied but nevertheless coherent and pleasant residential character and appearance of the surrounding area.
13. The dwellings at Nos 1A and 1B have been erected on part of No 1's residential garden. The dwellings are set well back from the street, alongside neighbouring residential gardens and a vacant plot awaiting redevelopment. The dwellings have no street frontage and occupy a 'backland' location, being accessed by a narrow pedestrian pathway between street fronting properties. Although No 1 and neighbouring properties in the terrace occupy a similar location, residential development in the surrounding area generally front directly onto the street.
14. Given their relatively modest footprint and low-profile rooflines, the scale of the new dwellings differs markedly from the more substantial proportions of the majority of residential development in the surrounding area. The dwellings also occupy plots that are comparatively limited in size, having regard to the comfortably sized plots generally occupied by established development in the locality.
15. The limited size of the plots means that there are relatively modest areas of external space about the dwellings. This creates the impression of both dwellings being uncomfortably cramped within their plots. The tall, solid structures erected on the boundaries, along with the looming side elevation of No 1 at No 1A, emphasises the restrictive nature of the plots. Erecting the dwellings, outbuildings and boundary structures has also led to a significant and noticeable erosion in the previously more open aspect to the front and at the side of No 1 and has contributed to a considerably and appreciably more built-up and enclosed feel in the environs.
16. The above factors all contribute to the dwellings being perceived as alien features, not relating well to and being markedly at variance with the prevailing pattern of local residential development and seriously eroding the visual qualities of the surroundings. Further landscape planting would not adequately offset the adverse visual consequences identified above. Although there are limited views from the street, the dwellings are seen from adjoining residential property, largely in conjunction with neighbouring development more characteristic of the surrounding area. In any event, an absence of public views is not a good reason for permitting unacceptable development as it could be repeated, causing further visual harm.
17. Therefore, the development has caused unacceptable harm to the character and appearance of the surrounding area. This is in conflict with Policy CC7 of

the Reading Borough Local Plan (LP), which requires development to be of high design quality that maintains and enhances the character and appearance of the area in which it is located.

Living conditions-existing and future occupiers of Nos 1A and 1B

18. There is sufficient privacy for occupiers of Nos 1A and 1B, having regard to the height of structures adjacent to the plot boundaries. Even so, the limited size of the external spaces within the plots affords little opportunity for occupiers of either dwelling to undertake the range of activities that might typically be associated with a private outdoor amenity space, for example informal recreation, cultivating plants, drying washing and domestic storage. The proximity of tall boundary structures further reduces the useability and attractiveness of these external spaces. Although the current occupiers might be content with the external space provided, this carries little weight. They are likely to move away at some stage, whilst future occupiers might well have different needs and aspirations.
19. Therefore, unsuitable living conditions are provided for the existing and future occupiers of Nos 1A and 1B. This is in conflict with LP Policy H10, which requires dwellings to be provided with functional private open space that allows for suitable activities, which respects the size and character of other similar spaces in the vicinity and which amongst other things, is not compromised by overbearing or overshadowing.

Living conditions-existing and future occupiers of No 1

20. Tall boundary structures around the dwellings also means that there is little opportunity for any harmful overlooking or loss of privacy to the occupiers of No 1 to occur. There is no conflict with LP Policy CC8, which requires development to not have a detrimental impact on the living environment of existing residential properties in terms of, amongst other things, privacy and overlooking. The absence of such harm is a neutral factor however which weighs neither in favour nor against granting permission.

Other Matters

21. Liability for Council Tax, compliance with the Building Regulations and provision of separate utilities are not planning merits considerations.

Conclusion-ground (a) appeal

22. The development causes unacceptable harm to the character and appearance of the surrounding area and suitable living conditions are not provided for the existing and future occupiers of the dwellings, in conflict with the Development Plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the Development Plan. Therefore, I conclude that the ground (a) appeal should not succeed.

Overall Conclusion

23. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Stephen Hawkins

INSPECTOR