

Appeal Decision

Site visit made on 12 September 2024

by B Davies MSc FGS CGeol

an Inspector appointed by the Secretary of State

Decision date: 26th November 2024

Appeal Ref: APP/W0340/W/24/3345389

12 to 16 Chapel Street, Thatcham, Berkshire, 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 (Young Estates and Land Ltd) against the decision of West Berkshire District Council.
 - The application Ref is 23/01999.
 - The development proposed is the construction of 6 No. three-bedroom dwellinghouses.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The planning history for the site provided by the Council indicates that the site has been subject to two previous appeals, the second of which was successful. However, the later appeal is not relied upon by either party and for this reason I have not referenced it below. Extracts of the earlier appeal¹ have been referred to and I have therefore taken these into consideration.

Main issues

3. The main issues are:
 - whether the proposed development would make adequate provision for affordable housing
 - whether proposals for surface drainage would ensure appropriate disposal of surface water
 - whether the proposed development would make suitable provision for access by larger vehicles
 - the effect on the living conditions of future residents of Plot 3 in respect of privacy, and all future residents in respect of outdoor amenity space
 - the effect on the living conditions of the residents of the adjacent BUPA care home in respect of outlook and daylight, and the residents of 'The Henrys' in respect of privacy and daylight

¹ APP/W0340/W/20/3251653 (February 2021)

- the effect on the character and appearance of the area.

Reasons

Affordable housing

4. Policy CS6 of the West Berkshire Core Strategy (2006 – 2026) Development Plan Document (2012) (CS) states that 20% of houses on sites of 5 to 9 dwellings should be affordable. According to the Council's calculations this equates to one house for the appeal site. No affordable housing is proposed. In these circumstances, the policy requires justification through a viability assessment. This has not been provided. The proposal does not, therefore, fulfil the requirements of Policy CS6.
5. The 2016 Strategic Housing Market Assessment and the 2018 'Annual Monitoring Report 2018: Housing January 2020' provide evidence of an acute local need for affordable housing. In addition, the Council has presented data that demonstrate median house prices are considerably higher than the national average, creating a high demand for affordable housing. The appellant has not disputed this evidence. The acute local need demonstrated means that this is an issue that would ordinarily weigh significantly against the proposal.
6. However, paragraph 65 of the more recent National Planning Policy Framework (2023) (NPPF) states that affordable housing should not be sought for residential developments of less than 10 houses. Where local policies were adopted prior to the NPPF, due weight should be given to them according to the degree of consistency with the NPPF. The policies are markedly different, and I therefore significantly reduce the weight that I give to the local policy.
7. The proposed development would not make adequate provision for affordable housing when measured against Policy CS6 of the CS. Given the demonstrated acute local need, this still weighs against the proposal, albeit this is now of limited weight given the significantly different approach advocated in the more recent NPPF policies.

Surface water drainage

8. It is proposed to discharge surface water to the ground via infiltration tanks. Section 6.3 of the Sustainable Drainage Systems (SuDS) Supplementary Planning Document (2018) (SPD) requires that a site investigation is undertaken to identify high groundwater levels and the permeability of the ground should be tested.
9. To achieve an appropriate dataset, the SPD recommends that such testing should be undertaken throughout the winter months. The appellant relies on the response from one infiltration test in a single trial pit from August 2021. This significant inconsistency with the guidance means that the result cannot be relied upon as a basis for the SuDS scheme.
10. I have also been provided two British Geological Survey logs. Both are some distance away from the site and provide single water level readings, one from a trial pit in September over 25 years ago and one from 1911. Neither of these readings fulfil the recommendations of the SPD and I am unable to give them any weight as a proxy for current groundwater levels at the site.

11. I note the proposals for deeper surface water drainage at a development site approximately 160m to the south. In the absence of geological, hydrological and hydrogeological data it is not possible to make a meaningful comparison between the sites, and I am therefore unable to take this into account.
12. The highest groundwater levels and permeability of the ground at the site are therefore unknown. It has not been demonstrated that the proposal for infiltration of surface water to the ground is feasible in principle and, for this reason, I am unable to have confidence that the matter could be resolved via a condition.
13. It has not been demonstrated that the proposals for surface drainage would ensure appropriate disposal of surface water. I conclude that Policy CS16 of the CS, which requires implementation of SuDS for the purpose of preventing flooding, is not met.

Access to the site for large vehicles

14. The Council reports that the distance from the rear plots to the main road is greater than its guidelines. This means that if the site is not accessible to larger vehicles, some plots would be an excessive distance from the main road to collect refuse and be attended to in an emergency. This is not disputed by the appellant. On this basis, I am satisfied there is a need to ensure that large vehicles can access the site.
15. I observed at the site visit that the main road is busy and the entrance to the site is both narrow and crosses a pavement. For this reason, I am persuaded that provision of a turning head for large vehicles on the site is necessary to ensure safe access. In the absence of this, larger vehicles may have to reverse through the site, over the pavement and onto the busy main highway, which I consider could be dangerous. It is not clear from the plans provided that there would be sufficient space on the site for a turning head. Swept path analysis for this purpose has not been provided, nor has it otherwise been demonstrated how sufficient turning space would be achieved.
16. Suitable access for larger vehicles has therefore not been demonstrated, in conflict with Policies CS13 or CS14 of the CS, which require development to demonstrate good access to key services and for all transport modes.

Privacy of the future occupants of Plot 3

17. The only window of one of the bedrooms in the front elevation of Plot 3 would directly face the adjacent BUPA care home. This appears to be at approximately 9.8 m according to the appellant or 12 m according to the Council. This side of the care home contains large living room windows with Juliette balconies over 3-storeys.
18. The Quality Design West Berkshire SPD (2006) references a long-established practice of 21 m distance between houses backing onto each other to provide privacy. Plot 3 does not back on to the care home, which could result in a reduction from the guideline figure. However, this must be balanced against the recommended 'greater distance' where living rooms or dining rooms are located above the ground floor, as they appear to be in the care home. My observation on site was that the Plot 3 bedroom could be directly visible to occupiers at the same level in the care home at a short distance. In addition

to being significantly below the distance recommended in the SPD, regardless of which distance above is correct, these observations lead me to conclude that the privacy of the future occupants of Plot 3 would be compromised.

19. The appellant has argued that the access lane running between Plot 3 and the care home is a 'street' and, in these circumstances, the buildings need only be a minimum of 9 m apart according to the Quality Design SPD. The front of Plot 3 would face the open side of the care home and the arrangement does therefore not comprise two frontages. Nor do I consider that the requirement for facing 'street' houses to have been 'carefully designed' to protect privacy would be met because the care home does not appear to me to have been designed with this arrangement in mind. For these reasons, I have not given this argument any weight.
20. The future occupants of Plot 3 would not have sufficient privacy in one of their bedrooms. The proposal would therefore be inconsistent with Policy CS14 of the CS, which requires high quality design.

Outdoor amenity space for future occupants

21. The gardens would be between 72 m² and 90 m², including the cycle storage, according to the Council. I note that the areas provided in the appellant's original Planning Design Access Statement (DAS) were smaller.
22. Either way, none of the plots would meet the 'general guide' in the Quality Design SPD for three-bedroom houses, which is for 100 m² of private space. I accept that these are not minima or policy. However, I consider that the guideline should be approached as a reasonable starting point, given the likely importance of outdoor space for family-sized houses, and some evidence provided to explain why it would be satisfactory to reduce the provision from this. No explanation has been provided, nor any evidence provided that these areas would be otherwise sufficient. I conclude that there could be harm to living conditions of future residents from not meeting the guidelines for outdoor amenity space, particularly as these are likely to be family houses.
23. However, I am satisfied that the gardens, although small, would be of sufficient size to incorporate essential outdoor items and space to sit outside, and the harm from not meeting the guidelines is therefore limited.
24. The appellant cites the 21 m back-to-back 'privacy distance' in the SPD to demonstrate that the distance between the house on Plot 2 and the garden at Plot 3 is sufficient. My reading of the SPD is that this distance is for the purpose of protecting privacy and daylight within houses, and I therefore do not give it any weight when assessing outdoor privacy. Neither do I consider the 6 m guideline for two houses built at right angles to be applicable because this does not appear to me to be relevant to an amenity space that is looked down upon.
25. The more relevant test is whether the arrangement would allow the occupants the opportunity to sit outside in reasonable privacy. The house on Plot 2 would be 3-storeys high, with bedroom windows in the top two storeys. These would look directly into the garden of Plot 3. The garden is small, and it is not clear to me that there would be any private space available to the future occupants.

26. In addition, the high wall of the adjacent church building would form the longest garden boundary of Plot 3. This would lead to a lack of outlook in the garden and I consider that this would be to the extent that it would feel oppressive. I also think it likely that the area would suffer to some extent from overshadowing by the church building and the house on Plot 2, given their proximity, height and location to the south and east.
27. The outdoor amenity spaces for all the houses would be smaller than the guidelines and no justification for this has been provided. However, the harm from this would be small because I consider the gardens large enough to meet the basic needs of outdoor space. The occupants of Plot 3 would not enjoy a reasonable level of privacy and the space would lack outlook to an oppressive degree. Overall, the proposal would therefore provide poor living conditions for future residents in respect of outdoor amenity space and would therefore be inconsistent with Policy CS14 of the CS, which requires high quality design.

Outlook and daylight at the BUPA care home

28. The proposal would introduce a 3-storey dwelling on Plot 4 in proximity to the northern end of the BUPA care home. The exact distance between the care home and the proposed house at Plot 3 is unclear. The Council drew my attention to the fact that it is 4.8 m based on the street elevations plan. The appellant has calculated it to be 9.3 m, but has not sought to explain this discrepancy.
29. Notwithstanding, the appellant has suggested that a distance of 10.5 m would provide sufficient protection for loss of outlook based on the SPD and an earlier appeal decision on the site. Neither of the distances above would fulfil this criterion and this does therefore not provide me with confidence that outlook and daylight within the care home would be protected.
30. I accept that the existing high hedges and trees on the site would provide a degree of protection from the loss of outlook, particularly to the lower floors. However, there would still be a loss of outlook from rooms in the upper floors and, in the absence of accurate, detailed information, it is not possible for me to conclude that this would not be unduly restricted.
31. For the same reasons as above, I do not accept that the 9 m 'street' separation distance is applicable in these circumstances.
32. It has also been brought to my attention that there was no response from the care home. A lack of response is not something to which I am able to give positive weight.
33. It has not been demonstrated that the outlook and daylight from the care home would not be unduly restricted. It has therefore not been established that the proposal would be consistent with Policy CS14 of the CS, which requires high quality design.

Privacy and daylight at the Henrys

34. Three houses on 'The Henrys' estate back onto the north of the appeal site, facing the rear of Plots 4, 5 and 6. Interested Parties raised concerns about lack of privacy and loss of light for houses on The Henrys, including in back

gardens and rear bedrooms. The appellant has not addressed these concerns as part of this appeal.

35. According to the DAS, the rear elevations between the properties would be of the order of 21 m, which is the recommended minimum in the SPD for protection of privacy and daylight. However, this does not account for the fact that the buildings on Plots 4, 5 and 6 would be 3-storey, with the top two floors containing bedroom windows looking towards The Henrys. For this reason, I consider that a longer distance between the buildings than the guideline would be appropriate to protect privacy.
36. In addition, the development would be to the approximate south of The Henrys, which could directly intercept sunlight, causing overshadowing of the gardens and potentially the houses given that development in Plots 4, 5 and 6 would be 3-storey. I do not have any analysis to the contrary for me to take into account. I conclude that daylight at The Henrys could be compromised, albeit the degree of harm is likely to be small at this distance.
37. I note that this layout was designed in response to the unsuccessful earlier appeal for flats at this location. Although the proposed terrace of houses would be further away from The Henrys than the flats, in that case the rear windows were opaque, and the circumstances have therefore changed significantly. I do not have the relative heights before me on which to base a comparison.
38. For these reasons, I am not satisfied that the privacy of the occupants of The Henrys would be preserved nor that they would not suffer loss of daylight and sunlight. It has therefore not been demonstrated that the proposal is consistent with Policy CS14 of the CS, which requires high quality design.

Character and appearance

39. The appellant has calculated that soft landscaping would account for 25% of the area. There is no guideline minimum figure to put this in context or similar assessment for similar nearby sites. I am therefore reliant on the consideration of whether the proposal would respect and enhance local character and appearance.
40. I observed that other small backland estates in the area tend to confine parking to the front of the site and larger buildings, including the care home, are set in green landscaping.
41. The proposed layout at this site requires access to the houses at the back of the site, resulting in a road running along most of its length with parking in front of the houses. Limited, narrow grass verges and minimal planting in some road corners are proposed according to the site plan. This would result in domination of the site by the access road and hardstanding, which is inconsistent with the equivalent nearby sites and would be harmful to the character and appearance of the area.
42. In addition, approximately half of the long western boundary with the care home would be fenced rather than hedged. It has not been explained why established trees around the site and hedging to the south could not be retained. This would contribute to the wider site lacking in landscaping and

the consequent appearance of overdevelopment would exacerbate harm to the area.

43. The adjacent 'Old Police Station' is cited as an example of a recent successful application with 'very little' in terms of landscaping. Although lacking in greenery, I observed that the area of hardstanding at the Old Police Station was confined to the front of the development for the purpose of parking. In contrast, this proposal provides for road access to the back of the site and, given the site's narrow width, I find the resulting dominance of the hardstanding to be harmful in comparison.
44. I have considered whether these matters of character and appearance could be overcome using a condition. The Tree Officer was of the opinion that there is little scope to place any further landscaping because of the degree of hardstanding required. The appellant has not sought to counter this argument and I do not, therefore, have evidence that harm to the character and appearance of the area could be avoided through a condition.
45. The Council lists several policies in relation to its refusal on grounds of character and appearance. It is not explained how APP3, which relates to spatial aspects of delivery of housing in Thatcham, is relevant. Policy CS17 concerns biodiversity and geodiversity assets, and there is no suggestion that these designations apply here. Policy CS18 relates to green infrastructure, as explicitly defined in the policy, and it is not clear how these designations apply in this case. I have therefore not taken these policies into account.
46. For the reasons above, I conclude that the proposal would have an adverse effect on the character and appearance of the area. In this, it is inconsistent with Policies ADPP1, CS14 and CS19 of the CS which together require that development is appropriate in terms of scale, pattern and design in the context of the existing settlement, and respects and enhances the character and appearance of the area.

Other matters

47. The development would contribute to local housing supply in proximity to local facilities, services and wider transport links. The appellant cites a 'much needed housing demand' and the DAS suggests that there is a particular demand for 3-bedroom houses. However, no evidence has been provided to suggest a particular shortage of houses of this type or that paragraph 11d) of the NPPF should be engaged. There would also be a contribution to the local economy during construction and occupation. Overall, these are matters to which I attach minor beneficial weight, given the small scale of the development.
48. I note that the appellant has committed to energy and water conservation, and disabled access in the DAS. These are all positive aspects that attract a very minor amount of beneficial weight.
49. The site is just outside the boundary of Thatcham Conservation Area (CA). The Council has confirmed that it does not have an up-to-date appraisal of this asset. My observation was that the development would be separated from the CA by a line of houses along the main road, which breaks the line of sight

between them. Accordingly, I am satisfied that the development would preserve the character and appearance of the CA.

Planning balance and conclusion

50. There would be minor benefits from the appeal, including a positive contribution to the local housing stock in an appropriate location. This is a matter of minor beneficial weight, given the small scale of the development.
51. However, it has not been demonstrated that drainage proposals are workable or that there would be appropriate access for large vehicles. I consider these to be matters of great weight against the proposal.
52. The proposals would result in a lack of privacy for the future occupants of Plot 3 and a poor standard of outdoor amenity for future occupants of the development. It has not been demonstrated to my satisfaction that the living standards of the occupants of the adjacent BUPA care home and The Henrys would not be harmed. Taken together, these are matters of moderate weight against the proposal.
53. The lack of landscaping would lead to harm to local character and appearance, albeit I consider this minor, and I have found that there would be limited harm from a lack of affordable houses.
54. I have therefore found conflict with numerous policies in the development plan, which amounts to a conflict with the development plan read as a whole. There are no material considerations before me to indicate a decision should be taken other than in accordance with the development plan.
55. For the reasons above the appeal should be dismissed.

B Davies

INSPECTOR