

DELEGATED APPLICATION REPORT

Address: 125 Highgrove Street, Reading, RG1 5EJ

Application No: 221447/VAR

Proposal: Erection of 8 new dwellings (Use Class C3) including landscaping and demolition of existing buildings within site without complying with condition 2 (plans) of planning permission 171477 to amend the location of landscaping, cycle storage and bin storage within the western part of the site to accommodate 2no. car parking spaces

Applicant: Highgrove Portfolio Build Ltd

Target Decision date: 21/11/22

Case officer: Connie Davis

1. Site Description and Surrounding Area

The application relates to a site to the rear of 107 to 123 Highgrove Street, 112-124 Kendrick Road and 1 to 19 Christchurch Road. The site is bounded on the southern side by the Christchurch Conservation Area and to the north by the Kendrick Conservation Area. 1 to 33 Christchurch Road are listed buildings. Planning permission was obtained in 2018 for the erection of 8 new dwellings (Use Class C3) including landscaping and demolition. Work has begun on site.

2. The Proposal & procedural background

The applicant is seeking to amend condition 2 (plans) of planning permission 171477. The condition required the applicant to comply with the set of plans approved at the time of the application. The applicant now wishes to amend the approved plans to alter the location of communal landscaping, cycle storage and bin storage, to allow the site to facilitate 2 car parking spaces. The scheme was originally approved as a car free scheme.

3. Public Consultation

Adjoining neighbours were consulted by letter.

8 letters of objection were received relating to the following matters:

- The development was car free and should remain as so
- Concerns about vehicle noise and pollution
- Concerned about the assumption the spaces should be provided to prevent unlawful parking
- Privacy louvres have not been fitted. Windows should be inward opening but have been fitted as outward opening
- The Council need to empty the rubbish bins on site
- Windows on the upper floor of unit 3 are resulting in a privacy breach following the removal of trees. Planning permission should be amended to install privacy louvres

Officer comment: These matters will be considered and discussed in the report

4. Internal Consultations

Transport - Objection

Natural Environment - Objection

Waste Operations - Objection

Ecology - No objection

Berkshire Archaeology - No objection

Environmental Protection - No objection

5. Plans Considered

The Council, in reaching its recommendation, has taken into consideration the following documentation:

1079-203 Rev E - Landscape Plan

Received 13th January 2023

285/126 Rev 1 - Fire engine turning circles

285/127 Rev 1 - Refuse vehicle turning circles

Received 26th September 2022 and 13th January 2023

6. Relevant Planning History

There are a number of planning records at the site. The main ones of relevance to this specific application are:

220968/NMA - Non-Material Amendment to Permitted application 171477 - Re-location of cycle parking and bin storage for the provision of 2 No vehicular parking spaces within the common amenity space - Application Withdrawn

171477/FUL - Erection of 8 new dwellings (Use Class C3) including landscaping and demolition of existing buildings - Application Permitted

Equality Act 2010:

In determining this application the Council is required to have regard to its obligations under the Equality Act 2010. However, there is no indication or evidence (including from consultation on the application) that the protected groups identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application. Therefore in terms of the key equalities protected characteristics it is considered there would be no significant adverse impacts as a result of the development.

7. Relevant Planning Guidance

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for Reading relevant to the application site comprises the Reading Borough Local Plan (2019).

As per the NPPG, the local planning authority should, in making their decisions, focus their attention on national and development plan policies, and other material considerations which may have changed significantly since the original grant of permission.

The 'National Planning Policy framework' ('NPPF') 2021 states clearly that its content is to be a material consideration in the determination of applications. The 'NPPF' states that due weight should be given to the adopted policies of the Reading Borough Local Plan (2019) according to their degree of consistency with the 'NPPF' (the closer the policies in the plan to the policies in the 'NPPF', the greater the weight that may be given). Accordingly, the 'NPPF' and the following development plan policies and supplementary planning guidance are relevant:

8. Relevant Policies

The application has been assessed against the following policies:

National

National Planning Policy Framework

National Planning Policy Guidance

Reading Borough Local Plan (2019)

CC1: Presumption in Favour of Sustainable Development

CC2: Sustainable Design and Construction

CC3: Adaption to Climate Change

CC4: Decentralised Energy

CC5: Waste Minimisation and Storage

CC7: Design and the Public Realm

CC8: Safeguarding Amenity

EN2: Areas of Archaeological Significance

EN12: Biodiversity and the Green Network

EN14: Trees, Hedges and Woodland

EN16: Pollution and Water Resources

H1: Provision of Housing

H2: Density and Mix

H3: Affordable Housing

H5: Standards for New Housing

H10: Private and Communal Outdoor Space

TR3: Access, Traffic and Highway- Related Matters

TR5: Car and Cycle Parking and Electric Vehicle Charging

Supplementary Planning Documents

Revised Parking Standards and Design (2011)

Tree Strategy (2021)

9. Appraisal

- i) Legal/ Procedural Matters
- ii) Principle of on site parking and impact on amenity space
- iii) The Natural Environment
- iv) Transport Matters
- v) Waste provision
- vi) Impact on neighbouring amenity

i) Legal/ Procedural Matters

It has been established in case law within *the Finney vs. Welsh Ministers (2019)* case that planning permissions may not be altered or varied via a S73 application either explicitly or via a condition in a way that would alter the scope of the original permission:

“.....On receipt of such an application section 73(2) says that the planning authority must “consider only the question of conditions”. It must not, therefore, consider the description of the development to which the conditions are attached. The natural inference from that imperative is that the planning authority cannot use section 73 to change the description of the development.....If the inspector had left the description of the permitted development intact, there would in my judgment have been a conflict between what was permitted (a 100 metre turbine) and what the new condition required (a 125 metre turbine). A condition altering the nature of what was permitted would have been unlawful. That, no doubt, was why the inspector changed the description of the permitted development. But in my judgment that change was outside the power conferred by section 73....”

As a result of the proposal, the description of development would not be altered. The proposal is considered acceptable from a legal/ procedural perspective.

ii) Principle of parking and impact on amenity space

The applicant states that parking on site is required to prevent unlawful parking. However, the original permission was permitted as a ‘car free development’ and conditioned that no unlawful parking shall take place (condition 27). As such the justification for the provision of parking is considered to carry no weight.

An area of landscaped communal space, which was provided under the original application, was secured to provide some relief amongst the expansive hard landscaping. This communal space could be used by residents for seating etc. As a result of the proposed amendment, whilst a reinforced grass area would remain, this would be used as parking spaces rather than amenity space. As such, it is considered that this would no longer result in a quality or useable amenity space for residents. The applicant aimed to provide additional landscaping elsewhere in the development (outside a number of dwellings), but it is not considered this would function as communal amenity space being located outside of individual dwellings rather than in a communal location, and, therefore, not likely to be used in a communal fashion.

As such the proposal erodes a valuable piece of a communal amenity space, contrary to Policy CC7 and H10 of the Reading Borough Local Plan (2019).

iii) Natural Environment

The loss of amenity space for car parking results in the loss of a potential space for tree planting on site. The Landscape plan is not considered acceptable as it does not include any trees, despite the plan showing a tree pit design. The site is within a very low canopy cover ward and within the AQMA hence inclusion of tree planting is a necessity.

As it has not been demonstrated that sufficient tree planting could be provided, the loss of the amenity space for parking is not considered acceptable and, therefore, the application is contrary to Policy EN14 of the Reading Borough Local Plan (2019).

iv) Transport matters

It is noted that the original scheme was permitted as a 'car free development'. The Transport department have not raised an in-principle objection from a highways/ safety perspective on the introduction of two parking spaces.

In terms of electric vehicle charging point provision, one is required per parking space in line with policy TR5 of the Local Plan. An indicative location has been provided, with further details being able to be secured by condition had the application been recommended for approval.

In terms of cycle parking provision, this was originally proposed within the communal amenity space that would be displaced as a result of parking. However, on drawing 1079-203 Rev E (Landscape Plan) it now shows cycle stores in each individual garden which is considered acceptable.

The tracking diagram submitted for this application (for refuse and fire engine vehicles) has been provided in relation to the previous layout for the site. However, the swept paths do not take into account that cars could be parked in the proposed spaces and the conflict that could arise which refuse vehicles/ fire engines. Particularly the refuse swept path, the path seems to encroach (or at least is very close) to the proposed parking spaces, which will be an issue if the cars are parked in the spaces at the same time as refuse collections. There would be no change if the cars were not parked there at the times of the collection, but the paths need to show the 'worst case' scenario and that is the proposed two spaces as occupied. Notwithstanding, as stated above, it is not considered that a reasonable justification for the proposed parking spaces has been provided and they would have a detrimental effect on amenity space, it is not considered that the proposal has demonstrated that the proposed tracking diagrams are acceptable from a highways perspective, contrary to Policy TR3 of the Local Plan.

v) Waste provision

Bins are located in the gardens of all plots, with the exception of plots 1 and 2 where the bins (2 per property are provided near the parking spaces). The amount of waste storage is considered acceptable.

Whilst the Waste officer has commented that access for a refuse vehicle would not be acceptable as it is too tight and dangerous, it had been established that refuse vehicles entering the site would be acceptable under the original permission. However as noted above, the refuse tracking diagrams have not been updated and therefore it has not been demonstrated that access to and manoeuvring in the site would be acceptable. Transport confirm that waste collections would need to be collected from the site (not on the highway

as suggested by the waste officer) and therefore the LPA cannot support the waste provisions as proposed as it is unclear as to whether refuse vehicles can safely manoeuvre in the site.

As such, the proposal is not considered acceptable in relation to Policy CC5 of the Local Plan.

vi) Impact on neighbour amenity

Concern was raised over vehicle movements and noise pollution generated by vehicles using the two parking spaces. However, due to the proposal for only two cars being able to park on site, it is considered the noise and pollution generated would not be substantially harmful enough to warrant refusal on this basis. No concerns were raised in this regard by the Natural Environment team in relation to policies CC8 and EN16 of the Local Plan.

Other matters

The application has been assessed in the context of the proposed amendments only and, therefore, it is not considered relevant to assess all planning matters once again, or revisit internal consultee comments where no objections/ changes in comments have occurred.

In terms of comments raised by neighbours about the installation of privacy louvres, these cannot be insisted upon unless agreed on the originally approved plans. If the development has not been built in accordance with these plans, this can be reported to the Planning Enforcement team for investigation.

Recommendation - REFUSE for the following reasons:

1. The proposal results in the loss of valuable useable, communal, amenity space and potential space for tree planting hence is contrary to policies CC7, H10 and EN14 of the Reading Borough Local Plan (2019) Council's adopted Tree Strategy (2021).
2. The proposal has failed to demonstrate acceptable refuse and fire engine tracking diagrams in relation to the new proposed layout of the site. As such, it is not clear if these vehicles could enter, exit and manoeuvre in the site safely which consequently means that waste and refuse collections may not be able to be suitably carried out, contrary to policies CC5 and TR3 of the Reading Borough Local Plan (2019).