

Section 55 Town and Country Planning Act

Design and Access Statement

Construction of single dwellinghouse

180 Wantage Road Reading

Site Information

Consultant	Jonathan McDermott
Client	Jay Chahaun
Site Address	180 Wantage Road Reading
LA	Reading Borough Council
Description of Development	Construction of Single Dwellinghouse
Pathway (PD/Application/Appeal)	Application

Constraints Review

Flood Risk Zone	Zone 1
Contaminated Land	No
Tree Preservation Order	No
Heritage Assets	No
Noise Abatement Areas	No
Explosive Hazard Areas	No
Area of Outstanding Natural Beauty	No
Special Protection Area	No
Site of Special Scientific Interest	No
RAMSAR Convention Site	No
Site of Importance to Nature Conservation	No
Article 4(2) Directions	N/A

Local Policy Requirements

Local Plan/Core Strategy	READING BOROUGH LOCAL PLAN Adopted November 2019
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Effective Policies in Development Control

CC1: PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT
CC2: SUSTAINABLE DESIGN AND CONSTRUCTION
CC3: ADAPTATION TO CLIMATE CHANGE
CC5: WASTE MINIMISATION AND STORAGE
CC6: ACCESSIBILITY AND THE INTENSITY OF DEVELOPMENT
CC7: DESIGN AND THE PUBLIC REALM
CC8: SAFEGUARDING AMENITY
H1: PROVISION OF HOUSING
H2: DENSITY AND MIX
H3: AFFORDABLE HOUSING
H5: STANDARDS FOR NEW HOUSING
H10: PRIVATE AND COMMUNAL OUTDOOR SPACE
TR1: ACHIEVING THE TRANSPORT STRATEGY
TR3: ACCESS, TRAFFIC AND HIGHWAY-RELATED MATTERS
TR4: CYCLE ROUTES AND FACILITIES
TR5: CAR AND CYCLE PARKING AND ELECTRIC VEHICLE CHARGING

SPG/SPD's

Affordable Housing Supplementary Planning Document 2013.

Planning History

Relevant History

Application No: 180981
Notification for Prior Approval for a Proposed Change of Use of a Building from Class A1 (shops) to C3 (dwellinghouses) to comprise 1 dwelling. Prior Notification under Class M, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016.

Report Date

8 April 2020

1. Introduction

1.1. The site, the subject of this application, relates to an outbuilding to the rear of No180 Wantage Road. The outbuilding itself faces Lundy Lane and comprises the former garage/store of the former Wantage Road Post Office.

1.2. The site as a whole has been subject to a number of applications however these submissions amount to the following:

1. The change of use of the former post office building to form 3 dwellings
2. The extension of the former post office building to make one of the consented dwellings bigger.
3. The construction of a dormer window to the former post office building to make one of the consented dwellings bigger.
4. The conversion of the outbuilding, the subject of this appeal, to form a dwelling.

1.3. As the LPA will be aware works to carry out much of the development in the site have now been carried out and completed. The works to convert the outbuilding are also underway. None of the conditions pursuant to that prior approval prevent this.



Site Location



Site Photograph

Matters Pursuant to the application

1.4. The application seeks an alternative scheme for the demolition and rebuilding of the outbuilding to form a single dwellinghouse.

Summation of Case

1.5. In approaching this application the applicants have sought pre-application advice from the LPA and that advice has been incorporated within this application. The proposed dwelling would share the communal amenity space of the flatted block and would provide a form of living accommodation that was compatible with the national standards.

2. Site Context

2.1. The site is within a wholly residential area and is surrounded by a mixture of built form.

2.2. Lundy Lane is characterised by a mix of outbuildings of different sizes and there is some evidence of residential development along the lane.

3. Local Development Framework

National Planning Policy Framework

National Planning Policy Framework

3.1. The National Planning Policy Framework (NPPF) became the primary national planning policy guidance on 27 March 2012. It replaced the previous PPS/PPG system of guidance documents and deleted a significant proportion of planning policy including the Regional Spatial Strategies (RSS). The NPPF includes transitional arrangements for Local Authorities to either prepare a plan that would be NPPF compliant or adapt an existing post 2004 plan to be compliant. The NPPF was updated in 2019 and those changes are reflected within this document.

Sustainable Development

3.2. Paragraph 7 of the NPPF sets out the Government's overriding objectives of securing sustainable development. Para 7 of the NPPF identifies the roles of the planning system in achieving sustainable development:

8. There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

- an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
- an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

3.3. Para 11 goes on to provide further emphasis on the focus towards sustainable development stating:

11. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

For plan-making this means that:

- local planning authorities should positively seek opportunities to meet the development needs of their area;
- Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.

For decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out of date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.

Housing

3.4. Section 5 Paragraph 59 of the NPPF sets out the objectives of obtaining a sustainable mix of dwellings in communities:

59. To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

Local Policy

3.5. The Local Development Framework is encapsulated within the Reading Borough Council Local Plan. The relevant policies are set out above and will be reflected upon within this application.

Relevant Caselaw

3.6. The previous appeal and the subsequent application revolves around the principle of the 'fallback position'. The Inspector is required to determine this appeal in accordance with the material considerations and therefore the most recent judgement in authority of this principle is set out below.

3.7. The case in question is **Mansell v Tonbridge and Malling BC [2017] EWCA Civ 1314**, in which the leading judgment was given by Lindblom LJ. The LPA had granted planning permission in this case for the demolition of an existing agricultural barn and of a bungalow on the application site and to construct four detached dwellings, with garages and gardens. In recommending the LPA's committee to grant planning permission, the planning officer had advised them that, in practical terms, the permitted development rights under Class Q meant that the existing agricultural barn could be converted into three residential units up to a limit of 450 sq m. Furthermore, the existing bungalow within the site could be replaced in accordance with an adopted policy in the Local Plan with a new residential building, provided that it was not materially larger than the existing building. He advised that, taken together, these factors could, in effect, give rise to the site being occupied by a total of four residential units (albeit of a different form and type to that proposed by this application). This, the officer observed, provided a realistic fallback position in terms of how the site could be developed.

3.8. The claimant sought to challenge the grant of planning permission on several grounds. He alleged that the planning officer (and hence the council) had misinterpreted the provisions of Class Q; they had wrongly accepted that there was a real prospect of the fallback development being implemented; and they had also misunderstood or misapplied the "presumption in favour of sustainable development" (as defined by paragraph 14 of the NPPF).

3.9. Part of this argument turned on the interpretation of the 450 sq m floorspace limit (which, the claimant argued, applied to the entirety of the building in question, and was not confined to the actual floor space that is actually converted). This argument was rejected both at first instance and by the Court of Appeal. The argument was that an interpretation of the relevant

provisions that confined the floorspace limit to the floor area actually converted would render sub-paragraph Q.1(b) of Class Q redundant, because sub-paragraph Q.1(h) already limits the residential floor space resulting from the change of use under Class Q to a maximum of 450 square metres.

3.10. At first instance, Garnham J. accepted that the council was entitled to conclude that there was a “realistic” fallback. The evidence had established that there had been prior discussions between the council and the planning consultant acting for the site owners. It was crystal clear from that contact that the owners were intending, one way or another, to develop the site. Alternative proposals had been advanced seeking the council’s likely reaction to planning applications. It was in the judge’s view wholly unrealistic to imagine that were all such proposals to be turned down the owner of the site would not take advantage of the permitted development provided for by Class Q to the fullest extent possible. It was not a precondition to the Council’s consideration of the fall back option that the owner had made an application indicating an intention to take advantage of Class Q. There was no requirement that there be a formulated proposal to that effect. The officer was entitled to have regard to the planning history which was within his knowledge, and the obvious preference of the owners to make the most valuable use it could of the site.

3.11. The claimant sought to criticise this approach by reference to Samuel Smith Old Brewery (Tadcaster) v SSCLG [2009] J.P.L. 1326 (at paragraph 21) and R. v SSE, ex p. P.F. Ahern (London) Ltd [1998] Env. L.R. 189 (at p.196). However, Lindblom LJ could not accept that argument. In his view, the officer did not misunderstand any principle of law relating to a fallback development. His advice to the members was sound.

3.12. In contrast to Mansell v Tonbridge and Malling BC [2017] EWCA Civ 1314, the Inspector will note that there has been a prior approval granted for the conversion of the outbuilding to a dwelling and that works have commenced to carry out this conversion. Thus the judgement in this case is wholly relevant as a realistic fallback position has been established.

4. The Principle of Development

The Council's Reasons for Refusal and the result of the appeal.

4.1. The Council's reasons for refusal were in part upheld by the Inspector. The inspector summarised the appeal as follows:

The main issues are the effect of the appeal proposal on:

- The character and appearance of the area, and;
- The living conditions of future occupiers, with particular regard to privacy, noise and the provision of internal and garden space, and;
- The living conditions of nearby residents, with particular regard to outlook, and;
- Whether the proposal makes suitable provision towards Affordable Housing having regard to local and national policies.

4.2. The reasons for refusal as offered by the council were refined by the Inspector as follows:

16. I find that the proposal would have a harmful impact upon the character and appearance of the area and in accordance with the advice in paragraph 130 of the National Planning Policy Framework (the Framework), permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. In addition, it would conflict with policy DM11 of the SDPD which requires development on private residential gardens to, amongst other things, make a positive contribution to the surrounding character. It would also run counter to one of the objectives in policy DM10 of the SDPD which seeks to ensure that the provision of outdoor space reflects the size and character of similar spaces in the vicinity.

19. Much of the south facing elevation comprises sliding glazed doors that would serve the living room and which open out onto a patio area. The combination of the extent of glazing, orientation, difference in levels and proximity to the main building at 180 Wantage Road, would result in direct views from windows serving principal rooms in the upper floor flats at No.180. I observed that dormer windows had been recently constructed in the rear facing roof slope of

No. 180, which correlates with the reference to a recent planning application² for dormer windows in the officer report. Due to the relationship with No. 180, the proposal would allow an unacceptable level of overlooking to the main living area and garden that would be harmful to the living conditions of future Occupants.

22. A footpath would be created to the western side of the proposal to serve the flats in No.180 providing rear access to Lundy Lane and access to the communal bin storage area directly adjacent to the northern elevation of the appeal building. In addition, a parking space would be located directly in front of the bedroom window. There is also a sizeable parking area located directly to the east of the appeal proposal serving other nearby properties. Taking these factors together, the overall configuration is likely to amount to significant activity and movement from nearby residential occupiers, that due to the proximity with the appeal proposal would cause an unreasonable level of noise and disturbance to future occupants such that the quality of their living conditions would be unreasonably compromised.

27. Accordingly, although I find that the quantum of internal and garden space provided would provide a suitable living environment, the proposed configuration would result in an unacceptably harmful degree of overlooking and disturbance for the future occupants of the proposed dwelling. As such, it conflicts with policy DM4 of the SDPD whose main objectives include preventing significant detrimental impact to the living environment of new residential properties. The Council also refers to policies DM10 and DM11 of the SDPD which, amongst other matters, require new development to provide suitable garden space. However, as I am satisfied that the proposal could achieve this, I do not find conflict with those policies.

33. Although I do not find harm in relation to the provision of affordable housing and living conditions of existing residents, I do find unacceptable harm in relation to the impact of the proposal on the character and appearance of the area and the living conditions of future residents. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Pre-Application Discussions

4.3. Given the above refined reasons for refusal the appellant sought pre-application discussions with the council and those discussions resulted in the attached scheme of development. In summation the alterations were as follows:

1. Alteration to the design and position of the building to maximise external amenity space and ensure a 20m back to back relationship between the dormer window and the rear windows of the proposed house
2. Removal of the car parking area as supported with a full transport assessment
3. Ensure that the development meets and exceeds the national space standards for a 1 ½ storey dwelling.

5. Answering the Appeal - The Design Appraisal

Scale

5.1. The scale of the proposed development has been carefully discussed with the LPA and following the inspectors decision follows a 1 ½ storey outbuilding at a lower level to the main building and provides for a 1 bedroom dwelling. Given that the scale has been agreed with the Inspector and LPA it is considered acceptable in its context.

Layout

5.2. The layout of the site has been altered by moving the outbuilding closer to the Lundy Lane frontage (on the suggestion of the LPA) thus increasing available spatial separation between the buildings and reducing overlooking. The amenity area is now communal providing space for all as one development site.

Amount

5.3. The amount of development remains the same as assessed by the Inspector. The proposal remains for a single 1 ½ storey dwellinghouse that will address the national space standard of 58sqm.

Landscape

5.4. The landscape setting of the building is unchanged save from the ability to provide low defensible planting within the forecourt fronting Lundy Lane.

Appearance

5.5. Notwithstanding the views of the LPA the applicant reiterates that the use of the outbuilding as a dwelling is established by the granted prior approval and these works have been commenced. Irrespective of the outcome of this application a dwelling will manifest itself relying on that approval alone. The decision notice for that approval is supplied with this statement. The use of the site as a whole, providing 4 dwellings, would not be altered as a result of this proposal and will be implemented as such.

5.6. The proposed additions would otherwise improve the appearance of the outbuilding within the setting of Lundy Lane providing for a 1 ½ storey structure that has been discussed and agreed with the LPA. As such the revised design is not considered out of character with the surrounding area.

5.7. Para 130 of the NPPF (2018) reminds us that:

130. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).

5.8. In this instance the design of the proposed development takes the opportunity to improve, rather than diminish, appearance of the site and the street as a whole by removing an otherwise tired and unattractive addition and replace it with a superior design.

5.9. In terms of the buildings scale and proportions the applicant notes that the overall scale, meaning its vertical relationship, and proportion reflects a single storey extension to what was originally and conversely will be again a residential building. Overall the height is increased however this should be taken with the vast improvements to the appearance of the site overall is considered subservient and proportionate to the two and three storey buildings that adjoin it.

6. Affordable Housing

6.1. Notwithstanding the conclusions of the inspector the Council assert that their policies have once again strengthened and the applicant provides a Affordable Housing Statement under a separate cover.

7. Access Appraisal

7.1 The proposal is supported by a full transport appraisal under a separate cover.

8. Conclusion

8.1. Having regard to the material considerations and planning history in this case the applicant now feels that they have addressed the refined reasons for refusal offered by the Inspector.

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