



Appeal Decision

Site visit made on 12 February 2019

by **D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC**

an Inspector appointed by the Secretary of State

Decision date: 27th March 2019

Appeal Ref: APP/E0345/W/18/3211966

20 Chalgrove Way, Emmer Green, Reading RG4 8SJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Toby Boyes against the decision of Reading Borough Council.
 - The application Ref 172325, dated 22 December 2017, was refused by notice dated 12 June 2018.
 - The development proposed was originally described as '*demolition of existing house and replacement with 1x4 bed detached house and 2x4 bed houses as a semidetached house*'.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing house and replacement with 1x3 bed detached house and 2x4 bed houses as a semidetached house at 20 Chalgrove Way, Emmer Green, Reading RG4 8SJ in accordance with the terms of the application, Ref 172325, dated 22 December 2017 subject to the conditions in the attached schedule.

Preliminary Matters

2. Notwithstanding the description of development in the banner heading above it is clear from the evidence before me that the scheme was amended during the determination of the above planning application by the Council. The scheme was amended to '*demolition of existing house and replacement with 1x3 bed detached house and 2x4 bed houses as a semidetached house*'. I have altered the description in the formal decision above to take into account this amendment.
3. Since the site visit, the revised Framework has been updated on 19 February 2019. On that date, the Government also published Housing Delivery Test (HDT) results for local authorities in England. The parties have not suggested that the Council does not have a 5-year housing land supply and the HDT results indicate that Reading has met the HDT. In the circumstances of this case it is not necessary to seek the further views of the parties. I am required to consider the appeals on the basis of the current Framework.
4. The appellant has submitted a certified and executed copy of a Unilateral Undertaking (UU), to provide a financial contribution towards the provision of affordable housing, during the appeal process. I will return to this matter below.
5. The Council have referred to its emerging Local Plan but I have not been provided with a copy of that document. Moreover, the Council have stated that the general thrust of policies relevant to this appeal remain unaltered. As such, I give little weight to the emerging Local Plan.

Main Issues

6. The main issues in this case are: -

- The effect on the character and appearance of the area;
- The effect on the living conditions of future occupiers of the development with regard to the provision of private outdoor space;
- Whether the development makes adequate provision for affordable housing provision.

Reasons

Character and appearance

7. The appeal site comprises a substantial detached bungalow, its outbuildings and its garden and parking areas. The area in the vicinity of the appeal site is characterised by a variety of age and style of buildings. However, the majority of dwellings on Chalgrove Way are semi-detached 2-storey dwellings that are linked with a common architectural language and appear to be of a similar age to each other. The regular plot widths and set back from the highway of these dwellings gives a consistent rhythm to the character and appearance of those parts of Chalgrove Way.
8. The bungalow on the appeal site is adjacent to a small number of other bungalows on the northern side of Chalgrove Way. As such, this part of Chalgrove Way does not conform to the consistent rhythm highlighted above. Nevertheless, the set back of the dwellings from Chalgrove Way and the space between them gives the area an open and spacious character and appearance, which is further enhanced by the presence of established trees within gardens.
9. The appeal bungalow is sited adjacent to a pair of the 2-storey detached dwellings and its plot is uncharacteristically wide in relation to the majority of the plots in Chalgrove Way. It would be replaced with 1 detached and a pair of semi-detached dwellings. Those dwellings would be a similar width to the existing 2-storey dwellings and their plot widths, set back from the road and spaces between them would be consistent with the predominant rhythm outlined above. The space to the front and sides of the dwellings would not compromise the overall open and spacious character and appearance of the area.
10. Whilst the rear garden depths would be considerably shorter than those associated with many of the nearby dwellings there is a variety of garden shapes and sizes in the area. Moreover, the rear garden spaces and the differences to some of their neighbours would not be readily apparent from Chalgrove Way. It would not, therefore, make the development appear unduly cramped in the street scene. Moreover, a number of existing trees in the garden areas would be retained.
11. The design of the dwellings would harmonise with the predominant architectural language of the existing 2-storey dwellings. Even though, one of the dwellings would be detached there are detached dwellings in the area and so it would not appear out of character. In any case, it is the set back and gaps between the buildings, together with the common architectural language that mainly defines the predominant character and appearance of the area. The position of the development adjacent to the existing 2-storey dwellings

means that whilst one of the bungalows would be removed the overall character and appearance would not be harmed.

12. Consequently, the proposal would comply with Policy CS7 of the Adopted Core Strategy Document (CS) which, amongst other things, seeks development that maintains and enhances the character and appearance of the area of Reading in which it is located. It would also comply with Policy DM11 of the Sites and Detailed Policies Document (SDPD) which, amongst other things, states that proposals for new residential development that includes land within the curtilage of private residential gardens will be acceptable where the proposal makes a positive contribution to the character of the area in terms of a layout which integrates with the surrounding area.

Living conditions

13. The dwellings would all have private rear gardens with additional space available at the sides and fronts that could also be used as amenity areas. SDPD Policy DM10 states, amongst other things, that dwellings will be provided with functional private space that allows for suitable sitting out areas, children's play areas, home food production, green waste composting, refuse storage, general outdoor storage and drying space. It also states that the design of the outdoor areas will respect the size and character of similar spaces in the vicinity.
14. As stated above, the depth of the garden areas would be considerably shorter than some of the rear gardens related to other dwellings in Chalgrove Way. However, the size of the garden areas would, in my experience, be consistent with those provided on modern suburban housing estates for family homes. Consequently, I consider that they would be of sufficient size to cater for the needs highlighted in SDPD Policy DM10. Moreover, there appears to be a variety of garden sizes in the surrounding area and therefore the outdoor areas would respect similar spaces in the vicinity. As a result, the proposal would comply with SDPD Policy DM10.

Affordable Housing

15. Paragraph 56 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations require that planning obligations should only be sought where they are: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
16. SDPD Policy DM6 relates to the provision of affordable housing and states, amongst other things, that on sites of 1-4 dwellings a financial contribution will be made that will enable the equivalent of 10% of the housing to be provided as affordable housing elsewhere in the Borough. The submitted UU would make a financial contribution that the Council considers would satisfy the requirements of that policy. I have no reason to dispute that finding.
17. Paragraph 63 of the Framework states that the provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas. This reflects the guidance within the government's Written Ministerial Statement (WMS) of 28 November 2014. The Framework and WMS are material considerations of considerable importance and weight.

18. There is an inconsistency between SDPD Policy DM6 and paragraph 63 of the Framework. However, there is robust evidence to indicate that in the Borough that there is a demonstrated need for a contribution towards affordable housing to be provided in connection with schemes that are not major developments. The Council also makes reference to a number of appeal decisions in the Borough which support this approach including decisions made after the 2018 version of the Framework was published. Furthermore, the appellant has not indicated that the financial contribution would prevent this small site from coming forward for development. Therefore, on the basis of the evidence before me, I consider that this demonstrated local need for small sites to make contributions to affordable housing outweighs the material considerations in this case.
19. The delivery of affordable homes through a financial contribution is necessary to make the development acceptable in planning terms and is directed related to the proposal. The obligation in this respect in the UU is fairly and reasonably related to the achievement of those objectives. I am, therefore, satisfied that the obligation in relation to the financial contribution to affordable housing included in the UU would meet the necessary tests.
20. There is also a requirement for a contribution towards the Council's costs associated with ensuring compliance with the UU. The Council have stated that the amount within the UU should be increased from £300 to £400 and that £500 should be required within the UU to meet the Council's legal costs. However, the affordable housing contribution sought is required to be paid prior to the occupation of the development and appears to be a relatively straightforward matter.
21. There is no evidence before me which would indicate that the cost of ensuring compliance with the UU would give rise to additional costs over and above what would reasonably be considered to fall within the scope of the everyday functions of the Council or why legal costs would be incurred. Therefore, I do not consider that the payment of contributions towards the Council's costs in these respects is needed to make the development acceptable in planning terms. As such, they would not meet the relevant tests.

Other matters

22. Local residents object to the proposal on a wider basis, including in respect of a restrictive covenant on the land, loss of views/outlook and light, privacy and overbearing, issues with drainage and water pressure, parking and highway safety and noise and disturbance. These did not form part of the Council's reasons for refusal and I have no reason to dispute the Council's findings on these matters which are contained within its Delegated Application Report. Consequently, I am satisfied that these matters would not result in a level of harm which would justify dismissal of the appeal.
23. While I understand that my decision will be disappointing for some residents, the information before me does not lead me to conclude that these other matters, either individually or cumulatively, would be an over-riding issue warranting dismissal of the appeal.

Conditions

24. I have considered the conditions put forward by the Council and the appellant against the requirements of the Planning Practice Guidance (PPG) and the

Framework. In the interests of conciseness and enforceability the wording of some of the conditions has been amended.

25. In order to provide certainty as to what has been permitted I have imposed a condition specifying the relevant drawings. In the interest of character and appearance conditions in respect of materials, retained trees and hard and soft landscaping are required. As it is not clear from the submitted plans and documents what materials would be used I consider that those details are required as suggested by the appellant. I have amalgamated the Council's suggested conditions 10, 11 and 12 in relation to landscaping to avoid duplication.
26. In the interests of wildlife protection, a condition requiring compliance with the recommendations of the submitted bat survey is required. In the interests of highway safety, a condition relating to the completion of the parking areas is required. A condition to secure a Construction Method Statement is necessary to ensure there are no significant adverse impacts upon the living conditions of local residents, the character and appearance of the area or upon the highway.
27. The PPG advises that conditions restricting the future use of permitted development rights should only be used in exceptional circumstances. As the rear garden areas to the dwellings are restricted in size a condition restricting permitted development rights in relation to Schedule 2, Part 1, Classes A and E is justified, in the interests of the character and appearance of the area and the amenity of neighbouring occupiers. Consequently, the suggested removal of permitted development rights in this respect is reasonable and necessary to make the development acceptable in the particular circumstances of the site and its surroundings.
28. In accordance with Section 100ZA(5) of the Town and Country Planning Act 1990 the written agreement of the appellant to the terms of the pre-commencement conditions is required through a Regulation 2(4) Notice of the Town and Country Planning (Pre-commencement Conditions) Regulations 2018. The appellant has stated that he is willing to accept the suggested pre-commencement conditions. In the case of all of the pre-commencement conditions, I consider that the resolution of the matters specified is required before the development commences as they are fundamental to the scheme.

Conclusion

29. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise, in accordance with section 38(6) of the Planning and Compulsory Purchase Act (2004). I consider, that given my findings above, that the proposal would comply with the development plan as a whole and there are no material considerations, including the Framework, that indicate that the decision should be determined other than in accordance with the development plan.
30. For the above reasons, and taking account of all other matters raised, I conclude that the appeal should be allowed.

D. Boffin

INSPECTOR

- Attached schedule -

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Unless modified by the conditions below the development hereby permitted shall be carried out in accordance with the following approved plans: A17001(AL)06; A17001AL(0)2 rev B; A17001AL(0)3; A17001AL(0)4 - Proposed Elevations SW and NE – Semidetached Houses; A17001AL(0)4 - Proposed Elevations SE and NW – Semidetached Houses; A17001AL(0)6 rev A; A17001AL(0)7 rev A and A17001AL(0)8 rev A.
- 3) Before any part of the development hereby permitted is constructed above damp-proof course level (DPC), samples/full details of the materials to be used in the construction of the external surfaces of the buildings hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4) The development hereby permitted shall be carried out in full accordance with the recommendations described in Section 4.2 of the submitted bat survey report (Arbtech, Bat Survey - Emergence and Re-Entry, September 2017). The 'Habibat' bat bricks shall be installed and details of their installation submitted to and approved in writing by the Local Planning Authority prior to the occupation of the dwellings hereby permitted.
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and been approved in writing by the Local Planning Authority to provide for:
 - space on site where vehicles of site operatives and visitors can be parked with details of how site operatives and visitors will be required to make use of the parking area provided;
 - location on site for storage of plant and materials used in constructing the development;
 - the erection and maintenance (including removal of any graffiti or fly posters) of security hoarding around the site;
 - any footpath closures or road closures needed during construction;
 - wheel washing facilities on site a scheme for recycling waste resulting from the construction works;The measures within the approved Construction Method Statement shall be maintained and adhered to throughout the construction period of the development.
- 6) The dwellings hereby permitted shall not be occupied until all vehicle parking spaces have been provided in accordance with the approved plans. The spaces shall be kept available for parking at all times thereafter.
- 7) No development shall take place until an Arboricultural Method Statement and Tree Protection Plan in accordance with the relevant recommendations of appropriate British Standards or other recognised Codes of Good Practice for all existing trees that are shown to be retained on the approved plans, both within and adjacent to the site, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Arboricultural Method Statement and Tree Protection Plan.
- 8) In this condition 'retained tree' means an existing tree which is to be retained in accordance with approved plans and particulars; and paragraphs a) and b) below shall have effect until one year from the date of occupation of the development hereby approved.

- a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with the relevant recommendations of appropriate British Standards or other recognised Codes of Good Practice
 - b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species and shall be planted at such time as may be specified in writing by the Local Planning Authority.
- 9) Before any part of the development hereby permitted is constructed above DPC level full details of both hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include:
- (a) hard surfacing materials; and
 - (b) proposed and existing functional services above and below ground (e.g drainage, power, communications cables, pipelines etc. indicating lines, manholes etc); and
 - (c) planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/planting densities where appropriate.
 - (d) Tree pit specifications.
- The approved hard landscaping shall be implemented prior to the occupation of any part of the development hereby permitted. All planting, seeding or turfing comprised in the approved details of soft landscaping shall be carried out in the first planting and seeding seasons following the date when the development hereby permitted is ready for occupation or in accordance with a timetable agreed in writing with the Local Planning Authority.; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that order with or without modification), no development within Classes A and E of Schedule 2, Part 1 of the Order shall be carried out other than that expressly authorised by this permission, without planning permission first being obtained from the Local Planning Authority.

