

Appeal Decision

Site visit made on 17 May 2016

by Debbie Moore BSc (Hons) MCD MRTPI PGDip

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 June 2016

Appeal Ref: APP/E0345/W/16/3143453

Land Off Venetia Close, Emmer Green, Reading RG4 8UG.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr D Clarke of Land Partnership Ltd against the decision of Reading Borough Council.
 - The application Ref 141882, dated 25 November 2014, was refused by notice dated 7 December 2015.
 - The development proposed is described as "erection of a 4 bedroom two storey detached house".
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a 4 bedroom two storey detached house at land off Venetia Close, Emmer Green, Reading RG4 8UG in accordance with the terms of the application, Ref 141882, dated 25 November 2014, subject to the conditions set out in the Schedule to this decision.

Application for costs

2. An application for costs was made by Mr D Clarke of Land Partnership Ltd against Reading Borough Council. This application is the subject of a separate decision.

Procedural Matters

3. The site address given in the application form differs from that in the Decision Notice. For the purpose of the appeal I have used that given in the application form as this appears to be more relevant.
 4. Notwithstanding the original application form was dated 25 November 2014, the application was subsequently amended by a corrected 'Certificate B', dated 2 December 2014. For the avoidance of doubt, I have used 25 November 2014 as the date of the application.
 5. All matters except access and layout have been reserved for future approval. Drawings showing the site layout, Ref 01B, were submitted and I have had regard to these in determining the appeal, treating the ground and first floor plans as illustrative.
 6. The owners of Nos 28 and 30 Venetia Close advise that they have submitted an application to the Land Registry which may affect rights over a concrete
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hardstanding which forms part of the proposed site access. However, as this matter does not appear to be resolved, I have determined the appeal on the basis of the situation as it currently stands.

Main Issues

7. The main issues are: (i) whether the location of the proposed access is suitable with regard to its effect on parking provision and consequently highway safety, and; (ii) whether a financial contribution towards affordable housing provision is necessary to make the development acceptable in planning terms.

Reasons

Highway Safety

8. The appeal site is located at the end of a cul-de-sac of houses which were constructed in the mid-1970s. Access to the site would be from Venetia Close over a concrete hardstanding at the end of the cul-de-sac. The majority of houses on Venetia Close have two or more off-street car parking spaces, including garage space. Nos 28 and 30 are unusual in this respect as they each have one garage space but no driveway for off-street parking. Consequently, the occupants use the hardstanding in front of their garages for parking. The development would mean this would cease, as the hardstanding would need to remain free of obstruction to allow vehicular access to the site.
9. The appeal site lies within Zone 3, Secondary Core Area, as defined in the Borough's Revised Parking Standards and Design (2011) Supplementary Planning Document (SPD), which requires two spaces for three and four bed houses. The appeal proposal meets this requirement but the Council considers that the development would lead to substandard parking provision for Nos 28 and 30. It appears that the concrete hardstanding has been used for car parking by Nos 28 and 30 since the properties on Venetia Close were built. Nevertheless, it is not within the ownership of either property and the appellant has submitted evidence to demonstrate that although the occupants of Nos 28 and 30 have a right of access over the hardstanding, they currently have no right to park there¹.
10. The cul-de-sac is a relatively quiet residential road and at the time of my site visit, there did not appear to be a high demand for on-street parking. Although this is only a snapshot in time, there is no evidence to the contrary and, as the wider area is predominantly residential in character, it is likely that demand for on-street parking is mainly from visitors to the occupants of Venetia Close. Therefore, any demand for on-street parking generated by the loss of the hardstanding as a parking area could be accommodated on Venetia Close.
11. The Council has not provided substantive evidence to demonstrate that the additional parking would interrupt the free flow of traffic to the detriment of highway safety. It asserts that the turning area at the head of the cul-de-sac would be used for parking which would lead to obstruction and danger to refuse vehicles and other service vehicles. However, this situation could occur irrespective of the proposal, as I saw during my site visit, and furthermore the occupants and visitors at Nos 28 and 30 are equally as likely to park elsewhere on the cul-de-sac.

¹ Restrictive Covenant, Dated 29 July 1976

12. The Council argues that Nos 28 and 30 were effectively supplied with two spaces each which have been used for 40 years. However, it is clear from the documentation provided by the appellant that the occupants do not have a right to park on the hardstanding. In any event, as described above, any displaced parking could be accommodated on the cul-de-sac and no resulting detriment to highway safety has been clearly substantiated.
13. Neighbours have expressed concerns that the proposal would lead to the occupiers of Nos 28 and 30 washing cars on the road, however, there is no evidence to suggest that this would arise or that it would have an adverse effect on highway safety.
14. I conclude on this issue that the proposed access is suitable and any displaced parking would not have an adverse effect on highway safety. The proposal is therefore in accordance with Policy DM12 of the Reading Borough Local Development Framework: Sites and Detailed Policies Document (alteration adopted 2015) which seeks to ensure that development does not compromise safety, and Policy CS24 of the Reading Borough Local Development Framework: Core Strategy (alteration adopted 2015) which is concerned with car parking standards and the accessibility of locations. I have taken into account the National Planning Policy Framework, paragraph 32, which states that decisions should take account of whether safe and suitable access to the site can be achieved for all people.

Financial Contribution

15. The appellant has submitted a S106 Unilateral Undertaking which aims to secure a financial contribution towards providing affordable housing in the area. The Council confirms that the figure offered is acceptable and indicates that this may overcome the second reason for refusal as stated in the decision notice.
16. Policy DM6 of the Sites and Detailed Policies Document (alteration adopted 2015) seeks to achieve the provision of contributions of affordable housing on sites of between 1 and 14 dwellings. The Council submits that Policy DM6 was recently adopted and is based on up to date evidence of need for affordable housing and viability testing. The Council's Supplementary Planning Document: Affordable Housing (adopted 9 July 2013) provides further guidance and is applicable to the proposed development.
17. Since the application was determined there has been a Court of Appeal judgment which has a bearing on the appeal.² The Secretary of State for Communities and Local Government has successfully appealed against the judgment of the High Court of 31 July 2015, on a joint application of West Berkshire District Council and Reading Borough Council in seeking to challenge; (i) the Secretary of State's Written Ministerial Statement of 28 November 2014 (WMS), and his subsequent alterations of the Planning Practice Guidance (PPG) on planning obligations for affordable housing and social infrastructure contributions, and (ii) his decision on 10 February 2015 to maintain those policy changes following an Equality Impact Assessment.
18. Subsequent to the Court of Appeal's judgment, the policies in the WMS as to the specific circumstances where contributions for affordable housing and tariff-

² Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441

style planning obligations should not be sought from small scale and self build development, must once again be treated as a material consideration in development management decisions. The PPG has been amended accordingly. I have therefore given significant weight to the policies in the WMS as Government policy alongside the National Planning Policy Framework.

19. The WMS seeks to remove the burden of financial contributions from small-scale development. The PPG advises that contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1000sqm. Despite the proposal falling below this threshold, the Council maintains that the requested contribution should be sought and advises that it is examining how its local circumstances might justify lower (or no) thresholds as an exception to the national policy, to which paragraph 26(iii) of the Court of Appeal Judgment refers.
20. Whilst I accept there is a need for affordable housing in Reading Borough, there is no substantive evidence to demonstrate how the contribution from the appeal proposal would meet this need and to what extent other larger sites would contribute. Whilst a contribution is required under Policy DM6 of the Sites and Detailed Policies Document, I find that the national policy contained in the Written Ministerial Statement outweighs that policy in this instance and there is no current clear justification for a lower threshold in Reading Borough. Consequently I conclude that a financial contribution towards the provision of affordable housing is not necessary to make the development acceptable in planning terms.
21. The decision notice also cites Policy CS16 of Core Strategy (alteration adopted 2015), however, this appears to relate to larger sites and does not appear to be relevant to the appeal proposal.

Other Matters

22. The site shares boundaries with other properties on Venetia Close, Kiln Road and Jefferson Close. There are several trees within the site, one of which is the subject of the Tree Preservation Order, and there are other trees close to the site boundary which fall within the ownership of neighbouring properties. An Arboricultural Impact and Method Statement (January 2015) has been submitted and the Council has accepted that tree protection would be secured through planning conditions.
23. Neighbours' concerns include the impact of the development on the character of the area, overshadowing, increased noise and disturbance, and loss of outlook and privacy. The Council has confirmed that the layout of the site is acceptable and neighbour amenity would be protected. The neighbouring house at 28 Venetia Close has two windows on the gable facing the site, which would be in close proximity to the proposed development. The Council has confirmed that these windows do not serve main habitable rooms and therefore any loss of outlook or overshadowing would not be material. Other neighbouring properties are a sufficient distance from the site boundaries and the proposed development would not have a material effect on outlook or levels of daylight. Any noise and disturbance arising from the use of the proposed dwelling is unlikely to be significant and potential loss of privacy can be addressed at the detailed design stage.

24. Other neighbour concerns about boundary treatment, noise and disturbance during construction and car parking on site can be addressed though the use of appropriate conditions. I note that there may be chalk mines in the vicinity, however, I do not have any details to demonstrate that the proposal would be affected by this matter.

Conditions

25. I have considered the conditions suggested by the Council having regard to paragraph 206 of the National Planning Policy Framework. In addition to the standard time limit condition, I have imposed a condition setting out requirements for reserved matters in accordance with the Act. I have specified the approved plans as this provides certainty. Conditions relating to tree protection are necessary to protect the character and appearance of the area.
26. I have not imposed conditions restricting the ridge height and requiring obscure glazing as requested by the Council. A higher ridge height may be acceptable depending on the scale and appearance of the final design which would be considered as part of an application for reserved matters. Similarly, I am not persuaded that it is necessary to require bathroom, shower or W.C. windows to be obscure glazed and non-opening up to 1.7m above floor level as this can be considered as part of an application for reserved matters.
27. I have imposed conditions requiring a Construction Method Statement, the laying out of the parking area and limiting the hours of construction operations to ensure construction does not adversely affect highway safety and to protect the living conditions of neighbouring occupants.
28. I have not imposed the suggested materials and landscaping conditions as this would be considered as part of a reserved matters application. I have, however, imposed a condition relating to boundary treatment to protect the character and appearance of the area. A condition requiring the access to be maintained free from obstruction is required to ensure safe access to the development.

Conclusion

29. For the reasons given above, and taking all other matters into consideration, including the submissions of nearby residents and interested parties, I conclude that the appeal should be allowed.

Debbie Moore

Inspector

Schedule of Conditions

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 2) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 3) Details of the appearance, landscaping and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 1:1250 site location plan and Drawing 01B (Rev B).
- 5) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors
 - ii) loading and unloading of plant and materials
 - iii) storage of plant and materials used in constructing the development
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v) wheel washing facilities
 - vi) measures to control the emission of dust and dirt during construction
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works
- 6) Construction works shall not take place outside 0800 hours to 1800 hours Mondays to Fridays and 0900 hours to 1300 hours on Saturdays nor at any time on Sundays or Bank Holidays.
- 7) Development shall be carried out in accordance with the Arboricultural Impact Assessment and Method Statement Ref: EIP19676aia_ams dated 29.01.15 and associated Tree Protection Plan EIP19676-03a unless otherwise agreed in writing with the local planning authority.
- 8) The building shall not be occupied until the area shown for car parking on Drawing No 01B (Rev B) has been drained and surfaced in accordance with details submitted to and approved in writing by the local planning authority, and that area shall not thereafter be used for any purpose other than the parking of vehicles.
- 9) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the dwelling is occupied.

- 10) The proposed access shown on Drawing No 01B (Rev B) shall be constructed in accordance with details submitted to and approved in writing by the local planning authority, and shall be available for use before the dwelling hereby permitted is first occupied. The access shall be maintained as such and kept free from obstruction thereafter.