LIS.
EB - copy to Hanson etc.

Appeal Decision

Site visit made on 25 February 2003

by Kevin Nield BSc(Econ) DipTP CDipAF MRTPI

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
4/09 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-inspectorate.gsi.gov.uk

Date
27 MAR 2003

Appeal Ref: APP/E0345/A/02/1101740
26 and land rear of 24 Southcote Road, Tilehurst

- 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 G.Cox Builders against the decision of Reading Borough Council.
- The application ref: 02/00770/FUL, dated 14 June 2002, was refused by notice dated 11 October 2002.
- The development proposed is described as demolition of existing dwelling. Erection of 12 no. 2-bedroom flats with access, 12 car parking spaces and bin store.

Summary of Decision: The appeal is allowed and planning permission granted subject to conditions set out in the Formal Decision below.

Preliminary Matters

1. Subsequent to the Council's determination of the appeal application and submission of appeal documents, I have been informed that the Council has resolved to grant planning permission, subject to a Section 106 Agreement, for the erection of a block of 6 flats comprising the north block of the present appeal proposal and with an identical access arrangement from Tilehurst Road.

2. The road width across the slip road to Southcote Road and Tilehurst Road was measured by the parties at the proposed access point to the site and it was agreed that the width was 8.8 metres.

Main Issue

3. I consider that the main issue in the consideration of this appeal is the effect on highway safety from the provision of access to Southcote Road and Tilehurst Road and the waiting of service vehicles on the highway.

Planning Policy

4. The development plan includes the Berkshire Structure Plan (1997) (BSP) and the Reading Borough Local Plan (1998) (RBLP). The general thrust of policies LD1, LD3, EN1 and H5 of the BSP is to promote development in sustainable locations taking account of various factors including, amongst other matters, harm to the character or appearance of an area and to the amenities of neighbouring land uses. Policy LE5 deals with transport considerations for development proposals, indicating that on and off site parking provision to a standard appropriate to the nature and location of the proposed development will be required. It is further indicated in the policy that development will not be permitted where it is likely to give rise to serious problems of access, parking, road safety or traffic congestion. Policy H9 indicates that favourable consideration will

generally be given to proposals for residential development that add to the range of densities, dwelling types and sizes in order to widen the choice of housing.

5. A Deposit Draft Berkshire Structure Plan (2001 – 2016) has recently been published. Policy H3 aims to make sure the fullest possible use is made of previously developed land in urban areas for housing development. Policy H6 indicates that generally densities of at least 30 dwellings per hectare (net) and in excess of 50 dwellings per hectare (net), where there is good accessibility to public transport, should be achieved. Although the emerging structure plan is at an early stage, insofar as policies H3 and H6 reflect national policy contained in Planning Policy Guidance Note 3: Housing (PPG3), I can attach weight to those policies.

6. Policy Key 3 of the RBLP seeks to ensure that development proposals contribute to required infrastructure in order to offset the costs of development. Policy HSG5 provides criteria for the assessment of proposed residential development. Amongst other matters it indicates that the character, density and design of new development should be of an acceptable standard and appropriate to the surrounding area and that all aspects of highway provision should be of an acceptable design and layout. Policy HSG9 deals with the location of new residential development, indicating that development proposals will not normally be permitted if they cannot provide a satisfactory and convenient access and adequate parking, or would have a detrimental impact on the character and quality of the area or on adjoining properties. Policy NE5 seeks to protect trees from damage or removal.

7. Policies TRN1, TRN11B and TRN12 seek to ensure that the highway effects of development are acceptable through the implementation of a balanced transport strategy, providing improvements to the highway to overcome traffic problems and through the provision of adequate car parking in accordance with its standards.

Reasons

8. The appeal proposal would entail the provision of a new vehicular access from the slip road to Southcote Road from Tilehurst Road to serve the development, replacing 2 existing access points. The position and standard of the proposed access has recently been considered by the Council when it resolved to grant permission for the development of the north block of flats only. Whilst the access would join Southcote Road and Tilehurst Road in close proximity to other access points, I noted that visibility along Tilehurst Road and the junction with Southcote Road was good and even in the morning peak hour, traffic was moving freely with vehicles able to exit junctions without any significant waiting times. The appellants indicate that the 85th percentile speed in each direction during the peak hour is approximately 25 mph, which is not disputed by the Council.

9. The Council contends that the additional traffic likely to arise from the appeal development would cause unacceptable disruption to traffic on Tilehurst Road. Evidence is submitted by the appellants, however, that the existing use of the site together with traffic that could arise through the construction of development granted planning permission could generate 3 peak hour trips with approximately 30 trips in total generated throughout the day. By applying figures derived from the TRICS database, the appellant indicates that the proposed 12 dwellings would create a similar trip generation, however the Council considers that the examples relied upon are not

directly comparable and that the appeal proposal could generate additional traffic.

10. No counter evidence is, however, produced by the Council and I consider that the examples provided satisfactorily demonstrate that traffic generation from the proposed development would not be significantly greater than that potentially arising from the existing use and other proposals with permission. I also noted the sustainable location of the site in close proximity to bus stops and to a railway station, which is, in my opinion, likely to encourage use of public transport. The site is also within reasonable walking and cycling distance of the town centre.

11. The appellants have indicated that they would pay a contribution to the Council towards the costs in carrying out transport improvements and measures identified through the Reading Urban Area Package and to that end a signed and dated unilateral undertaking on behalf of the landowners has been submitted.

12. The Council has indicated its concern at the likelihood of the refuse collection vehicle and other service vehicles needing to wait on the slip road to Southcote Road. I accept that waiting vehicles on Southcote Road or Tilehurst Road in the vicinity of the appeal site would cause a degree of congestion, however this is a situation that already occurs in connection with existing residential property and the Council has accepted limited waiting in connection with the recent application for the north block, which it has resolved to permit. It would be possible for a refuse vehicle and other service vehicles to use the proposed access road and turn, however the turning area is not of an accepted standard and in my view it is unlikely that such service vehicles will regularly utilise the access road. I consider that the collection of refuse from residents of the south block could adequately be dealt with by an arrangement agreed through planning condition.

13. I conclude on this issue that the proposal would not have an unacceptably detrimental effect upon highway safety or be in conflict with relevant local plan policies.

Other matters

14. The Council indicated in its second reason for refusal that no contribution had been agreed to the integrated transport measures of the Borough. This matter has subsequently been dealt with in the unilateral undertaking supplied by the appellants which also agrees a contribution for education provision for the Borough.

15. Local residents have indicated that the appeal proposal would represent an over-development of the site. I do not accept that contention as a considerable proportion of the site would still be open and the proposed development, in my opinion, is in accordance with guidance in PPG3 in terms of the use of previously developed land and density.

16. It is also indicated that the site, because of its sloping nature, is unstable. No evidence has been provided on this matter, however, and I therefore consider it appropriate to attach a suitable condition to the permission to require a site survey and the assessment of the need for retaining walls. There are further comments from residents that the proposal would place increased pressure on public services and in particular the local drainage system. No evidence has, however, been produced on this matter and I have dealt with the proposal on the information before me.

17. The proposed layout would not have any significant detrimental effect upon the living

conditions of nearby residents. The proposed north block would essentially replace an existing residential property with no detrimental effect upon occupants of 24a Southcote Road. The proposed south block would be sited to the side of and at a lower elevation than the nearby flats at Hampton Towers. Whilst occupants of flats in Hampton Towers with windows facing east would have a view over the south block, there would be little loss of privacy due to the angle of the properties. I note that the Council accepts that the proposal is acceptable in terms of layout, design and scale and that satisfactory amenity space is provided. I conclude in relation to this matter that the proposal is acceptable in terms of its layout, design and siting and does not conflict with policies HSG5 and HSG9 of the RBLP.

18. A method statement for the demolition of the existing buildings, protection of trees protected by Tree Preservation Order (TPO) and construction of the proposed access roadway under the canopy of the trees has been submitted to and accepted by the Council. I consider that that will form an acceptable basis for the construction of the access road and intend to impose a condition to ensure that construction is in accordance with the statement.

Conclusion

19. Notwithstanding my conclusion on other matters, for the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Conditions

20. The Council has suggested the imposition of conditions in the event of planning permission being granted. These aim to define the permission and ensure the approval of details of materials to be used in the external elevations, hard landscaping and boundary treatment. Additional conditions are suggested requiring the submission of details of hard and soft landscaping, provision of the maintenance of hard and soft landscaping and the protection of trees covered by the TPO during construction works.

21. Additional conditions are suggested by the Council in respect of surface and foul water drainage, slab and levels of the site and the provision of a survey of ground conditions to identify requirements for retaining walls. Conditions in respect of highway matters are suggested to ensure that the access is constructed before occupation of the proposed dwellings and to ensure closure of existing accesses to the site. Further conditions in respect of the provision of the access, vehicle turning and parking areas and bicycle storage are also suggested. I consider that such conditions are reasonable and would help define the permission and, except for revisions for precision, I attach them.

Formal Decision

22. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal and grant planning permission for the demolition of an existing dwelling and erection of 12 no 2-bedroom flats with access, 12 car parking spaces and bin store at land at 26 and rear of 24 Southcote Road, Tilehurst, Reading, in accordance with the terms of the application 02/00770/FUL dated 14 June 2002 and plans submitted therewith (Refs: 2536 Revision A, D 622-10/ 11/ 12/ 13 and 14) subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of five years from the date of this decision.

2. No development shall take place until details of hard and soft landscaping (including enclosures, lighting and other ancillary works) shall be submitted to and approved in writing by the local planning authority.

3. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the local planning authority.

4. If within a period of three years from the date of the planting of any tree, shrub or planting in replacement of those, is removed, uprooted or destroyed or dies or in any other way becomes defective in the opinion of the local planning authority, another tree or shrub of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.

5. 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 before the buildings are occupied or in accordance with a timetable agreed in writing with the local planning authority. Development shall be carried out in accordance with the approved details.

6. Tree protection measures as set out in the approved Method Statement (Ref: CED/BK/D622 Rev A), submitted on 7 July 2002, shall be implemented prior to the commencement of work on site, including any demolition work.

7. All demolition and construction works shall be carried out and completed in accordance with the approved Method Statement (Ref: CED/BK/D622 Rev A), submitted on 7 July 2002.

8. No development shall take place until samples of the materials including hard surfacing to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

9. No soakaways shall penetrate the water table, or exceed 2 metres in depth or be constructed in contaminated ground.

10. The foul water drainage system shall be constructed in accordance with details to be submitted and approved in writing by the local planning authority before commencement of development.

11. Details of the management of refuse collection from the proposed south block, including the transportation of bins, shall be submitted to and approved in writing

by the local planning authority prior to the occupation of the development.

12. No development shall take place until details of slab and eaves levels of the buildings hereby permitted, shown in relation to existing adjoining buildings, are submitted to and approved in writing by the local planning authority before the commencement of development. Development shall be carried out in accordance with the approved details.

13. Materials, plant and construction vehicles shall be stored on site during construction.

14. Prior to the commencement of development, a report from a suitably qualified person shall be commissioned by the developer to survey the change in levels between the site and the neighbouring sites of Hampton Towers and Josephine Court, and identify any requirement for retaining walls for the site and its immediate surroundings. This report shall be submitted to and approved in writing by the local planning authority. Recommendations made in the approved report shall be implemented in full before the commencement of the development, or phased in accordance with a programme in agreement with the local planning authority.

15. No dwelling shall be occupied until the access onto Southcote Road/Tilehurst Road has been constructed in accordance with the approved drawings and in compliance with the requirements of the local planning authority for work carried out within the public highway.

16. All existing accesses to the site shall be stopped up and abandoned immediately after the new access has been brought into use. The footway shall be reinstated to the satisfaction of the local planning authority.

17. No dwelling shall be occupied until the access drive, turning area and vehicle parking area serving the development have been provided in accordance with the approved plans. The parking area shall thereafter be kept available for parking at all times.

18. The covered bicycle storage spaces shown on the approved drawings shall be provided and equipped with secure Sheffield cycle stands before occupation of the dwellings to which they relate. ? S block only

Information

23. An applicant for any approval required by condition attached to this permission has a statutory right of appeal to the Secretary of State if that approval is refused or granted conditionally or if the authority fails to give notice of its decision within the prescribed period.

24. This decision does not convey any approval or consent that may be required under any enactment, by-law, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

25. Attention is drawn to the enclosed note relating to the requirements of the Chronically Sick and Disabled Persons Act 1970, as amended.

26. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.

INSPECTOR

Reading
BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990
PLANNING AND COMPENSATION ACT 1991
TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE ORDER 1995)

APPLICATION FOR FULL PLANNING PERMISSION

To: c/o DLP Consultants Ltd
Ritz Plaza House
10 Denton Road
Wokingham
RG40 2DX

Application No: 02/00770/FUL

Applicant: G Cox Builders

READING BOROUGH COUNCIL as local planning authority REFUSE FULL planning permission for the following development.

Proposal: Demolition of existing dwelling. Erection of 12 2-bedroom flats with access, 12 car parking spaces and bin store.

At: 26 And Land To The Rear Of 24-24A And Hampton Towers Southcote Road Reading

For the attached reasons

PLEASE READ THE NOTES ISSUED WITH THIS DECISION NOTICE

Date: 11th October 2002

David Gworthy

Head of Planning and Transport DB

NOTES

APPEALS

(1) If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he may appeal to the Secretary of State for the Environment in accordance with section 78 of the Town and Country Planning Act 1990 within six months of receipt of this notice. Appeals must be made on a form which is obtainable from the Department of the Environment, Tollgate House, Houlton Street, Bristol BS2 9DJ. The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements (a), to the provisions of the development order, and to any directions given under the order. He does not in practice refuse to entertain appeals solely because the decision of the local planning authority was based on a direction given by him.

(2) If permission to develop land is refused or granted subject to conditions, whether by the local planning authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted he may serve on the Common Council, or on the Council of the district in which the land is situated, as the case may be, a purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

(3) In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in section 114 of the Town and Country Planning Act 1990.

(a) The statutory requirements are those set out in section 79(6) of the Town and Country Planning Act 1990, namely sections 70 and 72(1) of the Act.

BERKSHIRE ACT 1986 - Section 32

(1) Except as provided in subsection (a) below, where plans for the erection or extension of a building are deposited with a district council in accordance with building regulations, the district council shall reject the plans unless, after consultation with the fire authority, they are satisfied that the plans show -

(a) that there will be adequate means of access for the fire brigade to the building or, as the case may be, to the building as extended; and

(b) that the building or, as the case may be, the extension of the building will not render inadequate existing means of access for the fire brigade to a neighbouring building.

(2) No requirement concerning means of access to a building or to a neighbouring building shall be made under this section in the case of a building to be erected or extended in pursuance of a planning permission granted upon an application made under the Act of 1990, unless notice of the provisions of this section is endorsed on or accompanies the planning permission.

(3) Section 16(7) and (8) and section 36(2) to (6) of the Building Act 1984 (notice of rejection or passing of plans and enforcement of requirements) shall apply as if this section were a section of the said Act 1984.

(4) Any person aggrieved by the action of the district council in rejecting plans under this section, may appeal to a magistrates' court.

(5) In this section references to the adequacy or inadequacy of means of access for the fire brigade shall be construed as references to a means of access adequate or, as the case may be, inadequate for use for fire-fighting purposes by members of one or more fire brigades and their appliances.

SECTION 76 TOWN AND COUNTRY PLANNING ACT 1990

76—(1) This section applies when planning permission is granted for any development which will result in the provision—

(a) of a building or premises to which section 4 of the Chronically Sick and Disabled Persons Act 1970 applies (buildings or premises to which the public are to be admitted whether on payment or otherwise);

(b) of any of the following (being in each case, premises in which persons are employed to work)—

(i) office premises, shop premises and railway premises to which the Offices, Shops and Railway Premises Act 1963 applies;

(ii) premises which are deemed to be such premises for the purposes of that Act; or

(iii) factories as defined by section 175 of the Factories Act 1961;

(c) of a building intended for the purposes of a university, university college or college, or of a school or hall of a university;

(d) of a building intended for the purposes of an institution within the PCFC funding sector; or

(e) of a building intended for the purposes of a school or an institution which provides higher education or further education (or both) and is maintained or assisted by a local education authority.

(2) The local planning authority granting the planning permission shall draw the attention of the person to whom the permission is granted—

(a) in the case of such a building or premises as are mentioned in subsection (1)(a)—

(i) to sections 4 and 7 of the Chronically Sick and Disabled Persons Act 1970; and

(ii) to the Code of Practice for Access of the Disabled to Buildings (British Standards Institution code of practice BS 5810: 1979) or any prescribed document replacing that code;

(b) in the case of such premises as are mentioned in subsection (1)(b), to sections 7 and 8A of that Act and to that code or any such prescribed document replacing it;

(c) in the case of such a building as is mentioned in subsection (1)(c), (d) or (e), to sections 7 and 8 of that Act and to Design Note 18 "Access for Disabled People to Educational Buildings" published in 1984 on behalf of the Secretary of State, or any prescribed document replacing that note.

(3) Expressions used in subsection (1)(d) and (e) and in the Education Act 1944 have the same meanings as in that Act.

HAZARDOUS WASTE AND MATERIALS

Your attention is drawn to the possibility that development of land or redevelopment of properties will give rise to hazardous material probably in the form of contaminated soil or building construction waste (e.g. asbestos lagging around pipework) needing disposal.

Under the requirements of the Control of Pollution Act 1974 and regulations made thereunder it is an offence if such material is not deposited in appropriate sites licenced by the County Council acting in their capacity as Waste Disposal Authorities and additional procedures may have to be followed.

Details of the sites in Berkshire and advice on suitability of wastes involved and procedures necessary can be obtained from:

Waste Management Branch, County Surveyor's Department,
Berkshire County Council, Shire Hall, Shinfield Park, Reading RG2 9XG Tel: Reading 875444

There may also be occasions when hazardous substances such as gas from former landfill sites could be a problem. The County Surveyor's Waste Management Group have agreed to list and map all such sites and copies will be available from the above address.

BUILDING REGULATIONS

This planning permission does not give approval under the Building Regulations. Before any works are commenced you should check with the Building Control Section of the Planning Department whether any approval is required under the Building Regulations.

Reading
BOROUGH COUNCIL

Application At: 26 And Land To The Rear Of 24-24A And Hampton Towers Southcote Road Reading

Application No: 02/00770/FUL

REASONS FOR REFUSAL

1. The proposed access arrangement to Tilehurst Road is substandard and is also located in close proximity to the busy junctions with Western Elms Avenue and Southcote Road. It is considered that additional traffic turning movements at this point would adversely affect the safety and convenience of road users as a whole. In addition, the on-site turning and access arrangements as proposed are inadequate. This would result in additional disruption of traffic flow on the Tilehurst Road due to service vehicles waiting on the main road. The development proposal is therefore in conflict with Local Plan policies HSG5, HSG9, TRN11B and TRN12.

2. In the absence of a completed Section 106 agreement or unilateral undertaking, the proposal fails to make any contribution towards the provision or improvement of integrated transport measures coming forward through the Reading Urban Area Package, or towards education facilities. the proposal is therefore contrary to Policies Key 3, TRN1 and TRN11 of the Reading Borough Local Plan.

Date: 11th October 2002

David Gworthy

Head of Planning and Transport DB

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