

DELEGATED PLANNING APPLICATION REPORT

Ward: Whitley

App Ref: 231336/VAR

Address: 41 Whitley Wood Lane, Reading, RG2 8PN

Proposals: Erection of 2 x 3 bed houses (C3 use) without complying with condition 2 of planning permission 210947

Case Officer: Marcie Rejwerska

**Date received (valid from): 27 September 2023
(ext.)**

Target Decision date: 28th June 2024

1. SITE DESCRIPTION

The application site is located at the rear of 41 Whitley Wood Lane and is accessed from Byworth Close. A public footpath runs alongside the application site, which connects the north end of Byworth Close and Whitley Wood Lane. At the time of the application, the 'North' house as approved has been partially constructed. The surrounding area is residential, characterised by two-storey semi-detached properties in similar character with the exception of 16 Byworth Close adjacent to the site, which is a bungalow.



Aerial view of the application site (outlined in red) taken from Google Maps on 12/03/2024.

2. PROPOSAL AND SUPPORTING INFORMATION

The applicant is seeking to vary condition 2 (approved plans) of planning permission 210947, which granted permission for the erection of 2x 3-bedroom houses. More specifically, the proposal includes the reduction in width of the 'South' house and regularisation of the decreased pitch in roof of the 'North' house. The applicant has also made the addition of a number of new windows to the North house at the request of the case officer, which is explained in this report.

Plans considered:

Sheet 02 - First Elevations North Building, dated 4 December 2023

Sheet 02 - First Elevations South Building, dated 13 February 2024

Sheet 01 - First Floor Plan North Building, dated 4 December 2023

Sheet 01 - First Floor Plan South Building, dated 13 February 2024

Received 13 February 2024

Sheet 03 - Proposed Section North Building, dated 4 December 2023

Sheet 02 - First Elevations North Building, dated 4 December 2023

Received 9 January 2023

Planning Statement, received 27 September 2023

3. RELEVANT PLANNING HISTORY

220968/APC - Application for approval of details reserved by conditions 3,4,5,9,14 of Application 210947 - Conditions discharged

210947/FUL - Erection of 2 x 3 bed houses (C3 use) - Application permitted

200900/REM - Approval of reserved matters relating to previously approved application 171243 - Appearance, landscaping and scale Reserved Matters - Approved

171243/OUT - Outline application for the erection of a new detached dwelling at land to the rear of 45 Whitley Wood Lane with access off Byworth Close with all matters reserved apart from access and layout - Application Permitted

4. CONSULTATIONS

The following addresses were consulted by letter.

43 Whitley Wood Lane, Reading, Berkshire, RG2 8PN

16 Byworth Close, Reading, RG2 8SH

47 Whitley Wood Lane, Reading, Berkshire, RG2 8PN

45A Whitley Wood Lane, Reading, RG2 8PN

41 Whitley Wood Lane, Reading, RG2 8PN

45 Whitley Wood Lane, Reading, RG2 8PN

Flat 2, 45b Whitley Wood Lane, Reading, RG2 8PN

Flat 1, 45b Whitley Wood Lane, Reading, RG2 8PN

No letters of representation received.

5. LEGAL AND PLANNING POLICY CONTEXT

S73 of the Town and Country Planning Act 1990 provides the ability to vary a condition on a planning permission. The Town and Country Planning (Development Management Procedure) (England) Order 2010 streamlined the procedure to enable local planning authorities to use its discretion on which statutory consultees should be consulted when such an application is submitted in order to speed up the system by being more flexible. This Statutory Instrument was accompanied by 'Greater flexibility for planning permissions' which contained relevant guidance. This states that a minor material amendment is 'one whose scale and nature results in a development which is not substantially different from the one which has been approved'. This is not a statutory definition and the decision on what constitutes a minor material amendment is at the discretion of the local planning authority but is considered to include,

"any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved".

Section 73 of the Act instructs the Local Planning Authority to consider the variation to, or relief of conditions that are applied for, stating that "if they [the LPA] decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted....they shall grant permission accordingly" (s.73(1)(a)). As such, the Local Planning Authority can grant permission unconditionally or subject to different conditions, or alternatively refuse the application if it is deemed that the original condition(s) should remain in place.

The grant of a planning permission under Section 73 essentially provides a new planning permission. It is therefore necessary to reconsider the overall development proposal against the development plan. The key issues for consideration comprise the principle of the development whilst having regard to the impact upon the character and appearance of the area, the effects on traffic generation and highway safety, amenity and the natural environment.

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. Material considerations include relevant policies in the National Planning Policy framework (NPPF) - among them the 'presumption in favour of sustainable development'.

However the NPPF does not change the statutory status of the development plan as the starting point for decision making (NPPF paragraph 12).

Accordingly, the National Planning Policy Framework and the following development plan policies and supplementary planning guidance are relevant:

National Policy and Guidance

National Planning Policy Framework

National Planning Practice Guidance

Reading Borough Local Plan (2019)

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

CC9: SECURING INFRASTRUCTURE

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

H11: DEVELOPMENT OF PRIVATE RESIDENTIAL GARDENS

TR1: ACHIEVING THE TRANSPORT STRATEGY

TR3: ACCESS, TRAFFIC AND HIGHWAY-RELATED MATTERS

TR5: CAR AND CYCLE PARKING AND ELECTRIC VEHICLE CHARGING

SPD

Affordable Housing (2021)

Revised Parking Standards and Design (2011)

Planning Obligations Under S106 (2015)

Sustainable Design and Construction (2019)

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.

APPRAISAL

Character and appearance

Policy CC7 states *“All development must be of high design quality that maintains and enhances the character and appearance of the area of Reading in which it is located.”*

The approved plans for the South house show the layout to measure just under 10m in depth and just over 8m in width. The proposed measurements are 10.3m depth x 7.5m width. The applicant has clarified that the reduction in width is required as during the process of digging foundation trenches a utility pipe was found to obstruct the proposed foundations of the property. The change in the layout of the property is not considered harmful to its appearance nor the wider streetscene.

The North house at the time of the application is nearing its completion. During the site visit conducted, the case officer made note of the roof pitch being shallower than the approved drawings, therefore, making the property appear taller and worsening the appearance of the front and rear facades. As such, the officer has requested the applicant to add high level windows to the front elevation of the property to improve the internal access to light and the appearance of the front façade. This is considered to improve the appearance of the property without harming the character of the street.

Overall, the proposed changes are considered in accordance with Policy CC7 of the Reading Borough Local Plan 2019.

Amenity

Policy CC8 states *“The position of habitable rooms, windows and outdoor living spaces will be particularly important. A back-to-back distance of 20 metres between dwellings is usually appropriate, although the circumstances on individual sites may enable dwellings to be closer without a detrimental effect on privacy.”*

The addition of the proposed windows on the front elevation of the North house has been carefully designed to minimise potential harm to no 16 Byworth Close, specifically through the addition of high level windows on the first floor which are not considered to pose a risk of overlooking. The windows are considered an important amendment to improve the appearance of the property and the amenity of future occupiers and are considered in accordance with Policy CC8.

The proposed amendments to the South house are not considered to pose any amenity risk.

Other matters

The proposed amendments are not considered to have any resulting impact on the proposed landscaping or any other matter relating to the proposal.

Conclusion

The development has been assessed and the works are considered to be in accordance with the above relevant policies and planning permission can be granted. Advice contained in the Government's Planning Practice Guidance (PPG) makes it clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have been discharged. Accordingly, the recommendation is to grant the variation to the existing planning permission subject to all conditions previously attached to planning permission 210947 with an amendment to condition 2 (approved plans).

RECOMMENDATION

GRANT VARIATION OF CONDITION 2

Subject to the following conditions (variations highlighted, pre-commencement conditions which have since been discharged have been changed to compliance conditions):

1. The development hereby permitted shall begin no later than *three years* from the date of planning permission 210947 issued on 28 April 2022.

REASON: For the avoidance of doubt and to ensure that any conditions imposed on the original permission remain in force other than as expressly hereby varied and development must be started in accordance with Section 73(5) of the Town & Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall **ONLY** be carried out in accordance with the following approved plans:

G91001 002_45B WHITLEY WOOD READING Rev B - Details Various
Received 2nd September 2021

Sheet 02 - First Elevations North Building, dated 4 December 2023
Sheet 02 - First Elevations South Building, dated 13 February 2024
Sheet 01 - First Floor Plan North Building, dated 4 December 2023
Sheet 01 - First Floor Plan South Building, dated 13 February 2024
Received 13 February 2024

Proposed Materials
Received 12th August 2021

Location Plan Version 3
Proposed Site Plan
Received 6th August 2021

General Information in relation to planning application for 2 x 3 bed houses on land to the rear of 39-45 Whitley Wood Lane, RG2 8PN
Received 10th June 2021

REASON: For the avoidance of doubt and to ensure that the development is carried out and adhered to in accordance with the application form and associated details hereby approved.

3. The materials to be used in the construction of the external surfaces of this development shall be as specified on the plans approved on 10/11/2022 under condition discharge application ref. 220968 unless otherwise agreed in writing with the Local Planning Authority.

REASON: In the interests of visual amenity and ensuring the new development responds positively to the local context and character in accordance with Policy CC7 of the Reading Borough Local Plan 2019.

4. The hard and soft landscaping of the development hereby permitted shall be carried out, in accordance with the approved landscaping plans and documents as specified on the plans approved on 10/11/2022 under condition discharge application ref. 220968. The soft landscaping shall take place no later than during the first planting season 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.

Any trees or plants which, within a period of 5 years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, to be agreed in writing by the Local Planning Authority

REASON: In order to ensure the satisfactory implementation of the landscaping hereby approved in accordance with Policy CC7, EN12 and EN14 of the Reading Borough Local Plan 2019.

5. The measures within the approved Construction Method Statement as specified on the plans approved on 10/11/2022 under condition discharge application ref. 220968 shall be adhered to throughout the whole of the construction period unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of protecting the amenity of local land uses or neighbouring residents, the character of the area and highway safety in accordance with Policy CC8 and TR3 of the Reading Borough Local Plan 2019.

6. The dwellings hereby permitted shall not be occupied until all vehicle parking spaces have been provided in accordance with the plans hereby approved. The spaces shall be kept available for parking at all times thereafter.

REASON: To ensure that the development is provided with adequate parking facilities to meet the needs of future occupiers and reduce the likelihood of roadside parking which could be a danger to other road users in accordance with Policy TR3 and TR5 of the Reading Local Plan 2019.

7. No dwelling hereby permitted shall be occupied until the bicycle parking facility for that dwelling has been provided in accordance with the plans hereby approved. The facility shall be kept available for bicycle parking at all times thereafter.

REASON: To encourage travel by sustainable alternatives to driving a motorcar in accordance with Policy TR1 and TR5 of the Reading local Plan 2019.

8. No dwelling within a Plot shall be first occupied until details of an electric vehicle (EV) charging Scheme comprising a layout plan and detailed specification for a minimum of ten percent of all vehicle parking spaces within that Plot to be provided with electric vehicle charging points, and a further ten percent of spaces provided with cabling and other supporting infrastructure reasonably required to enable EV charging points to be fitted, has been submitted to and approved in writing by the Local Planning Authority. No dwelling within a Plot shall be first occupied until the Scheme for that Plot has been fully provided in accordance with the approved details. The spaces shall be maintained for vehicle charging in accordance with the approved Scheme at all times thereafter.

REASON: In the interests of environmentally sustainable transport in accordance with Policy TR3 and TR5 of the Reading Local Plan 2019.

9. The development hereby permitted shall be carried out in line with verification as specified on the forms approved on 10/11/2022 under condition discharge application ref. 220968, demonstrating that the dwellings hereby permitted have achieved a minimum of a 19% improvement in the dwelling emission rate over the target emission rate as defined in The Building Regulations for England Approved Document L1a: Conservation of Fuel and Power in New Dwellings (2013 edition), and built to the higher water efficiency standard under Regulation 36(3). Such evidence shall be in the form of a 'design stage' Standard Assessment Procedure (SAP), produced by an accredited energy assessor.

REASON: To ensure that the development is carried out in accordance with sustainable building standards in accordance with Policy CC2 and H5 of the Reading Borough Local Plan 2019.

10. The development hereby permitted shall not be occupied until written verification has been submitted to and approved in writing by the Local Planning Authority demonstrating that the dwellings hereby permitted have achieved a minimum of a 19% improvement in the dwelling emission rate over the target emission rate as defined in The Building Regulations for England Approved Document L1a: Conservation of Fuel and Power in New Dwellings (2013 edition), and built to the higher water efficiency standard under Regulation 36(3). Such evidence shall be in the form of an 'As Built' Standard Assessment Procedure (SAP), produced by an accredited energy assessor.

REASON: To ensure that the development is carried out in accordance with sustainable building standards in accordance with Policy CC2 and H5 of the Reading Borough Local Plan 2019.

11. Notwithstanding the provisions of Part 1, Schedule 2, Article 3, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification), no development within Class A (enlargement, improvement or other alteration), Class B (enlargement of a dwellinghouse consisting of an addition or alteration to its roof), or Class E (building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse) shall be carried out within the curtilage of the dwellings without express planning permission from the Local Planning Authority.

REASON: Due to the constrained nature of the site and as unrestricted development could harm the amenities of neighbouring properties through overlooking or being

overbearing and harm the appearance of the main house and the area in general and should therefore be controlled in accordance with Policy CC7 and CC8 of the Reading Borough Local Plan (2019).

12. All areas of hedges, scrub or similar vegetation where birds may nest which are to be removed as part of the development, are to be cleared outside the bird-nesting season (March - August inclusive) or if clearance during the bird-nesting season cannot reasonably be avoided, a suitably qualified ecologist will check the areas to be removed immediately prior to clearance and advise whether nesting birds are present.

If active nests are recorded, no vegetation clearance or other works that may disturb active nests shall proceed until all young have fledged the nest.

REASON: To ensure that wildlife is not adversely affected by the proposed development in line with Policy EN12 of the Reading Borough Local Plan (2019).

13. Site clearance shall to be carried-out under the supervision of a suitably qualified ecologist (that is a member of CIEEM or an equivalent organisation) who will check features such as compost heaps, piles of debris for reptiles. In the event that reptiles are found they are to be removed to a safe place way from the works and on completion of site clearance works a letter detailing the methods implemented shall be submitted to the Local Planning Authority.

REASON: To ensure that wildlife is not adversely affected by the proposed development in line with Policy EN12 of the Reading Borough Local Plan (2019).

14. The development hereby approved shall be carried out in accordance with the habitat enhancement scheme as specified on the plans approved on 10/11/2022 under condition discharge application ref. 220968.

REASON: In order to avoid harm to habitats and species whilst securing biodiversity enhancement in the long term. This accords with Paragraph 175 of the NPPF (2019), Policy EN12 of the Reading Borough Local Plan 2019, the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017.

15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) no windows, doors, dormers, or openings, other than those shown on the approved plans shall be placed in either dwelling hereby permitted at any time without the grant of a separate planning permission from the Local Planning Authority.

REASON: To safeguard the amenities of the adjoining premises from overlooking and loss of privacy in accordance with Policy CC8 of the Reading Borough Local Plan 2019.

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the proposed first floor window on the eastern elevation of the south house shall be top openable above 1.7m as a minimum when measured from the floor level of the respective rooms, and glazed with obscure glass before occupation of the development hereby approved and shall be permanently maintained as such.

REASON: To safeguard the amenities of the adjoining premises from overlooking and loss of privacy in accordance with Policy CC8 of the Reading Borough Local Plan 2019.