



**TOWN AND COUNTRY PLANNING ACT 1990
APPEAL UNDER SECTION 78**

APPEAL BY: NJT PLANNING ON BEHALF OF MR R. SMITH

**AGAINST THE DECISION BY READING BOROUGH COUNCIL TO REFUSE FULL
PLANNING PERMISSION FOR ERECTION OF A NEW DWELLING**

AT: 98 CONISBORO AVENUE, CAVERSHAM, READING RG4 7HT

**INSPECTORATE REFERENCE: APP/E0345/W/24/3354019
READING BOROUGH COUNCIL REFERENCE: PL/24/0054**

WRITTEN STATEMENT ON BEHALF OF READING BOROUGH COUNCIL

Date: 17 December 2024

**Head of Planning, Development & Regulatory
Services
Reading Borough Council
Civic Offices, Bridge Street
Reading,
RG1 2LU**

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- 1. Suggested conditions should the appeal be allowed.

1.0 Introduction

- 1.1 The planning application (PL/24/0054) subject to this appeal was validated by the Local Planning Authority on 1 March 2024. The application was determined under delegated powers and refused planning permission on 15 July 2024.
- 1.2 The Inspectorate has already received copies of the following documents in respect of this appeal:
- the decision notice for this application,
 - the delegated report for this application,
 - relevant adopted local and supplementary policies
 - responses received by Officers; and
 - copies of written objection letters received.
- 1.3 For clarity the application plans and supporting documents upon which the Local Planning Authority (LPA) based its decision are listed below. These plans were considered in the determination of this application by the case officer.

List of plans:

Sustainability Statement for 98 Conisboro Avenue, dated 7 December 2023
3902/100 – Existing Block and Location Plan, dated July 2023
Preliminary Ecological Appraisal, NKM Associates, dated 23 November 2023
Received 16 January 2024

Planning, Design & Access Statement Rev. A, dated May 2024
MW.2308.CAC.AIA.RevA – Arboricultural Impact Statement, Mark Welby Consulting Arborists, dated 3rd June 2024
C3300-R1-REV-A_03-06-2024 SUDS – SUDS Report, Nimbus Engineering Consultants, dated June 2024
3902-208-B-Foul Water Drainage Plan
304650 - Energy Statement
3902-208-B-Foul Water Drainage Plan
3902-210-A-Footprint and Profile Revisions Diagram
Small Sites Metric Statutory Biodiversity Metric Calculation Tool
Received 12 June 2024

3902-209-A-Landscape & Ecological Enhancement Plan
3902-207-A-Sections
3902-206-E-Elevations 2of2
3902-205-E-Elevations 1of2
3902-204-E-Roof Plan
3902-203-F-First Floor Plan
3902-202-F-Ground Floor Plan
3902-201-F-Site Plan
3902-200-A-Block Plan
Received 12 June 2024

2.0 Description of the site and surrounding area

- 2.1 The application site comprises a detached two-storey dwelling on the east side of Conisboro Avenue in Caversham. The dwelling is set back from the road and has a relatively large rear garden. The immediate surrounding area has a number of garden properties with no frontages onto the street.

3.0 Planning History

- 3.1 None.

4.0 Relevant Planning Policy

- 4.1 Section 38 (6) of the Planning & Compulsory Purchase Act 2004 requires that in making any decision under the Planning Acts, the determination shall be made in accordance with the development plan, unless material considerations indicate otherwise.
- 4.2 NPPF – 2018 (updated 2023). Paragraph 2 confirms that Section 38 remains in force. Reading Borough's adopted local plan at the time of the decision comprised the following relevant policies:

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
- 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
- TR1 Achieving the Transport Strategy
- TR3 Access, Traffic and Highway-Related Matters
- TR5 Car and Cycle Parking and Electric Vehicle Charging

Supplementary Planning Guidance

- Affordable Housing (2021)
- Revised Parking Standards and Design (2011)
- Sustainable Design and Construction (2019)

5.0 The Council's Case

- 5.1 There are 5 reasons for refusal:

1. *The proposed dwelling, by reason of its excessive scale and footprint, dominant layout and associated access would result in an overdeveloped character harmful*

to the spacious and open garden character of the site with consequent harm to the character of the surrounding area. As such the proposal is contrary to Policies H11 and CC7 of the Reading Borough Local Plan 2019 and paragraph 72 of the NPPF 2023.

- 2. The layout and positioning of the proposed dwelling in close proximity to property boundaries with neighbours on Kidmore Road and Morecambe Avenue would result in a stark and uncharacteristic change which would be overbearing on the gardens of those properties, contrary to Policies CC8 and H11 of the Reading Borough Local Plan 2019.*
- 3. The layout and positioning of the proposed dwelling in close proximity to the boundary would result in poor outlook and access to natural light to bedroom 1, resulting in harm to the amenity of future occupiers, contrary to Policy CC8 of the Reading Borough Local Plan 2019.*
- 4. Incorrect and insufficient information has been submitted to demonstrate that the proposal would not lead to a biodiversity net loss, and that the existing vegetation including hedgerows and trees will not be harmed by the development, contrary to Policies EN12 and EN14 of the Reading Borough Local Plan 2019.*
- 5. In the absence of a completed legal agreement to secure an acceptable contribution towards the provision of affordable housing, the proposal fails to contribute adequately to the housing needs of Reading Borough. The proposal is therefore contrary to Policies H3 and CC9 of the Reading Borough Local Plan 2019 and the Council's adopted Affordable Housing Supplementary Planning Document 2021.*

5.2 The proposed development comprises the erection of one, three-bedroom bungalow with associated parking and landscaping within the rear garden of the host property.

5.3 The proposed development is considered unacceptable due to the overbearing footprint and layout of the dwelling, and its resultant impact on residential amenity both for neighbouring residents and future occupiers.

5.4 The delegated report, as already submitted, provides more background to how these points were considered.

6.0 Response to Appellant's Grounds of Appeal and Planning Considerations

Reason for Refusal 1

6.1 The first reason for refusal relates to the scale, footprint, and the overall layout of the proposal within the site and in the context of the host dwelling. The Appellant claims that the presence of similar tandem developments and sufficient space within the site does not result in harm to the overall character of the site and the wider area.

6.2 While there are other similar tandem developments in the immediate vicinity, no. 100 Conisboro Avenue, for example, sits on a much larger plot which allows the host and additional dwelling at the rear to have a much more comfortable layout. On the other hand, no. 169 Kidmore Road at the rear of the application site is similar to the proposal, with a relatively smaller rear garden, putting the dwelling closer to the rear boundary with the application site, contributing to the conflicts resulting from the

refused proposal. The fact that similar development has occurred in the past does not necessarily justify it being repeated. Policy changes have occurred since the construction of both of these neighbouring properties, seeking to exert greater control over backland development, such as the introduction of Policy H11 within Reading Local Plan adopted in 2019 (the first iteration of Policy H11 was first introduced within the RBC Sites and Detailed Policies Document 2012) and para 124 of the NPPF (2024), which was first introduced in NPPF 2012, and the appeal proposal would further erode the spaciousness of the area. This proposal was assessed on its own merit, and the principle of tandem development was not supported based on the cramped and contrived layout of the proposal within its plot. The presence of other tandem developments, whether they are positive or negative examples, is not considered to prejudice the decision with regards to the appeal site.

- 6.3 While the design of the dwelling itself may have some merit in isolation, it does not correspond well to the constraints of the site. The Appellant disputes the LPA's assertion that the proposed dwelling would compete with the host property. This concern is not in relation to the height or massing of the refused development, but the layout of it relative to the host property. The dwelling would have a relatively smaller and contrived outdoor amenity space, with the plot dominated by built form, resulting in an overdevelopment of garden space.
- 6.4 The Appellant also notes the permitted development rights fall back for a substantial outbuilding, however, this is not considered comparable or relevant, as the height of any such outbuilding would be limited to much below the proposed height of the dwelling and would therefore not result in the same concerns as the refused development. It would not require separate access, or private amenity areas, it would also not attract the same intensity of occupation or double the amount of domestic paraphernalia.
- 6.5 Overall, the benefit of one new dwelling is not considered to outweigh the harm resultant from an overdevelopment of residential garden land and the LPA maintain this reason for refusal.

Reason for Refusal 2

- 6.6 The second reason for refusal addresses the residential amenity concerns resultant from the overdevelopment of the site. The Appellant claims that there are sufficient separation distances from all nearby plots relative to the refused development. Some revisions were made at the application stage at the LPA's request; however, it is not considered that these were sufficient in addressing the concerns raised, particularly through the letters of representation received from neighbouring properties.
- 6.7 The Appellant's illustration of existing separation distances is not considered an accurate representation of the existing relationship between these properties, as the most negatively impacted properties will be nos.7-11 Morecambe Avenue and 169 Kidmore Road, which currently benefit from a separation distance, when measured from rear elevation to rear elevation, in excess of 50m. A reduction to a separation distance below half of that existing (measuring 22m at most) is a stark change in terms of the existing privacy characteristics of the area, which will appear overbearing and imposing on those properties. The LPA therefore maintain this reason for refusal.

Reason for Refusal 3

- 6.7 The third reason for refusal relates to the likelihood of there being poor natural daylight/sunlight to the ground floor bedroom. The Appellant has submitted proposed revisions to the scheme to resolve this concern. However, no daylight and sunlight assessment has been submitted, either at application or appeal stage, to support the Appellant's claim that the bedroom would have sufficient access to natural light. As such, the reason for refusal is maintained by the LPA.

Reason for Refusal 4

- 6.8 The Appellant has submitted revised biodiversity net gain calculations which resolve the errors identified by the LPA's ecology consultant during the application stage. This has been reviewed by the LPA and the ecology consultant and the calculations are now considered to have been completed correctly.

- 6.9 Despite this, the submitted calculations show a biodiversity net loss on site, which does not accord with Policy EN12 of the Reading LP, which requires no net loss on all sites, where possible. Considering the overdevelopment of the site and excessive footprint, it would stand to reason that a reduction in the footprint could alleviate the resultant biodiversity net loss on site. An increase in outdoor amenity space would also create more available land for landscaping to off-set the net loss within the site. Therefore, the LPA consider that the biodiversity mitigation hierarchy (para 193, NPPF 2024) has not been followed and off-site compensation is not accepted. The LPA maintain the reason for refusal.

Reason for Refusal 5

- 6.10 This reason relates to the lack of legal agreement as a result of the development being refused permission. Policy H3 of the Reading Local Plan 2019 requires new residential development within the borough to contribute to affordable housing within the borough. A development of one new dwelling would be required to demonstrate an off-site contribution equal to 5% of the Gross Development Value. The RBC Affordable Housing SPD (2021) states:

In relation to paragraph 63 of the NPPF referring to small sites, the stance taken by the Local Plan is that the need for affordable housing in Reading is so significant that there is a justification for seeking contributions to affordable housing from all sizes of residential development, from one dwelling upwards. This was found to be sound in the Inspector's Report of September 2019, and therefore forms part of adopted policy H3. The only exceptions offered by policy H3 are for one-for-one replacement dwellings and for residential conversions from houses to flats.

- 6.11 The Appellant engaged the LPA before lodging the appeal to agree the heads of terms and the Appellant and the LPA are now working on a legal agreement to overcome this reason for refusal. At the time of writing this statement, a draft of the legal agreement has been completed. If this is agreed within the timescale as set out within the Appeals Procedures, then this reason for refusal falls away, providing the Inspector decides to allow the appeal.

7.0 Conclusion

- 7.1 After consideration of the Appellant's Statement the LPA remain of the opinion that the proposal remains unacceptable on the basis of the reasons for refusal as outlined above. The harm resulting from overdevelopment of the site and the subsequent harm

to residential amenity and biodiversity on site has not been justified or sufficiently resolved, in order for the proposed development to be considered acceptable.

- 7.2 The Inspector is therefore respectfully asked to dismiss this appeal. If the appeal is to be allowed, it is suggested that the attached conditions (see Appendix 1) be imposed, and which are based on the plans as originally assessed under the application.

APPENDIX 1: Suggested Conditions

1. The development hereby permitted shall begin no later than three years from the date of this planning permission.

REASON: In pursuance of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004) in order to prevent an accumulation of unimplemented planning permissions.

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

3902-207-A-Sections

Received by the LPA on 12 June 2024

3902-201-G Site Plan, dated July 2023

3902-202-G Ground Floor Plan, dated July 2023

3902-203-G First Floor Plan, dated July 2023

3902-204-F Roof Plan, dated July 2023

3902-205-F Elevations 1of2, dated July 2023

Received by the LPA on 18 October 2024

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 and/or application forms 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. No development shall commence on site 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 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.

5. 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.

6. Prior to first occupation/use of the building hereby approved, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall specify means of treatment for hard surfaced areas, means of enclosure including mammal gaps where appropriate, specify species, planting sizes, spacing and numbers of trees/shrubs to be planted (including replacement trees and tree pit specifications where appropriate, and must include a maintenance programme detailing all operations to be carried out in order to allow successful establishment of planting.

Planting shall be carried out in accordance with the approved details in the first planting and seeding seasons following the occupation of the building(s) 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 the interest of ensuring that the landscaping of the development enhances the visual local environment and in accordance with Policy CC7 of the Reading Borough Local Plan 2019.

7. No development shall commence on site (including demolition or preparatory works) 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 not shown as being removed on the approved drawings, both within and adjacent to the site, has been submitted to and been approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved Arboricultural Method Statement and Tree Protection Plan.

REASON: In order to ensure that appropriate protection is given to trees of amenity value within and adjacent to the site in accordance with Policy EN14 of the Reading Borough Local Plan 2019.

8. No development shall commence on site (including demolition or preparatory works) until details of a habitat enhancement scheme are submitted to and approved in writing by the Local Planning Authority. The scheme is to include a programme for implementation and ongoing maintenance. The habitat enhancement scheme shall thereafter be implemented and adhered to in accordance with agreed programme.

REASON: Details are required prior to commencement as insufficient information was submitted with the application and in order to avoid harm to habitats and species whilst securing biodiversity enhancement in the long term. This accords with Paragraph 186 of the NPPF (2023), 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.

9. The development hereby approved shall not be commenced until a site-specific land gas risk assessment in accordance with current guidance and a detailed land gas site

investigation as necessary has been carried out by a competent person to characterise the nature and extent of land gas and its implications fully and effectively for the development hereby approved.

Remediation Scheme

b) The development hereby approved shall not be commenced until a remediation scheme demonstrating how the development is to be protected against the possibility of land gas in accordance with the findings of the above risk assessment, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented and completed as approved before the development is first occupied and those measures incorporated into the development shall thereafter be retained as approved at all times thereafter.

Implementation of Approved Remediation Scheme

c) No part of the development hereby approved shall be first occupied until a validation report by an independent assessor demonstrating the remediation has been carried out fully in accordance with the approved scheme has been submitted to and approved by the Local Planning Authority.

REASON: Due to proximity to a historic landfill site and to ensure the development is suitable for its end use and the wider environment and does not create undue risks to occupiers of the site or surrounding areas in accordance with Policy EN16 of the Reading Local Plan 2019.

10. 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 dwelling 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 EN14, CC7 and CC8 of the Reading Borough Local Plan 2019.

11. No development shall commence on site until the applicant or their agents or successors in title have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which will have been submitted by the applicant and approved in writing by the Local Planning Authority.

REASON: These details are required due to insufficient information being contained within this submission and because the site lies in an area of archaeological potential, as illustrated by the Berkshire Archaeology Historic Environment Record. Archaeological monitoring or evaluation will ensure preservation, either by record or in situ, of any heritage assets present on the site in a manner appropriate to their significance, Policy EN1 and EN2 of the Reading Local Plan 2019.

12. No construction, demolition or associated deliveries shall take place outside the hours of 0800hrs to 1800hrs Mondays to Fridays, and 0800hrs to 1300hrs on Saturdays, and not at any time on Sundays and Bank or Statutory Holidays without prior written approval from the Local Planning Authority.

REASON: In order to protect occupiers of nearby properties from unreasonable disturbance from works connected with implementing this permission in accordance with Policy CC8 of the Reading Borough Local Plan 2019.

13. No development shall commence on site, including any works of demolition, until a site-specific Construction Method Statement has been submitted to and been approved in writing by the Local Planning Authority. The Statement shall provide for:
- a) 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;
 - b) Location on site for storage of plant and materials used in constructing the development;
 - c) The erection and maintenance (including removal of any graffiti or fly posters) of security hoarding around the site;
 - d) Identification of any footpath closures or road closures needed during construction;
 - e) Required wheel washing facilities on site;
 - f) A scheme for recycling waste resulting from the construction works.
 - g) Measures for controlling the use of site lighting whether required for safe working or for security purposes;
 - h) Required measures to control the emission of dust, dirt and other airborne pollutants during demolition and construction;
 - i) Provisions to be made for the control of noise coming from the site during demolition and construction;
 - j) Full details of pest control measures following any demolition to include capping of drains/sewers and baiting arrangements.

The measures within the approved Statement shall be adhered to throughout the demolition and construction period unless otherwise agreed in writing by the Local Planning Authority.

REASON: These details are required due to insufficient information being contained within this submission and 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.

14. No materials or green waste produced as a result of the clearance of the site, demolition works or construction works associated with the development hereby approved shall be burnt on site.

REASON: In the interests of air quality, the amenity of neighbours, and to promote more sustainable approaches to waste management in accordance with Policy CC8 of the Reading Borough Local Plan 2019.

15. The dwelling 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.

16. Prior to first occupation of the dwelling hereby approved, details of an electric vehicle (EV) charging point, comprising a layout plan and detailed specification for 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. The EV charging point shall then be retained and maintained 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.