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## Appeal Decision

Hearing held and site visit made on 26 November 2014

**by Terry G Phillimore MA MCD MRTPI**

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

**Decision date: 7 January 2015**

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**Appeal Ref: APP/W0340/A/14/2218552**

**131, 133, 137, 139 and 141 Bath Road, Thatcham, Berkshire RG18 3BH**

- 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 Rissance Land No. 10 Limited against the decision of West Berkshire Council.
  - The application Ref 13/02396/OUTMAJ, dated 23 September 2013, was refused by notice dated 19 December 2013.
  - The development proposed is 6no. 3-bed houses, 15no. 2-bed flats/maisonettes and 16no. 1-bed flats/maisonettes.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. At the hearing an application for costs was made by the Council against the appellant. This application is the subject of a separate Decision.
3. The planning application was determined by the Council on the basis of amendments made following the original submission, with the agreed revised description as set out above. As such the appeal relates to an application for outline permission with landscaping as the only reserved matter.
4. With the appeal the appellant has submitted an amended layout plan (drawing no. RL9/14d) which shows omission of a proposed vehicle turning area. The Council is content for the appeal to be determined based on this, and considers that no prejudice to interested parties would result. I have no reason to conclude otherwise and therefore take the amendment into account.
5. The appellant has submitted a unilateral undertaking dated 10 November 2014 containing planning obligations pursuant to section 106 of the Act; this replaces a previous undertaking.

### Main Issues

6. The main issues are:
  - a) the effect the development would have on the character and appearance of the surrounding area;
  - b) whether the development would result in satisfactory living conditions for the occupiers of neighbouring properties in terms of outlook and privacy,

- and for future residents of the development in terms of external amenity space;
- c) the effect the proposal would have on highway conditions in the vicinity;
  - d) whether the development complies with requirements relating to flooding and drainage;
  - e) whether the proposal should make provision for affordable housing.

## **Reasons**

### ***Character and appearance***

7. The existing 5 dwellings on the site are a mix of detached and semi-detached houses with long gardens. The houses front Bath Road which is part of the A4, this section linking Newbury to the west and the Thatcham centre which lies to the east. The westernmost property (no. 141) flanks Henwick Lane which runs northwards off Bath Road. Across Henwick Lane is the large open space of Henwick Worthy Sports Ground. There are long views of the site across the playing fields and along Bath Road from the west and east, and it is in a prominent corner location.
8. Residential development around the site in the nearby sections of Bath Road on both sides and in Henwick Lane is generally of two storey character. Although there are variable building lines along Bath Road, individual houses are generally set back from the road frontages in a distinctly linear form of development. Front forecourt parking is common, but typically with greenery between the property frontages. There are also gaps between individual dwellings. While in some cases these gaps are narrow, the separation is emphasised by the variations in form and appearance of the buildings. The appeal site has these features. The overall effect is of linear suburban development with an open and subdued character, particularly accentuated in the vicinity of the site by the greenery of the playing fields and wide road verges.
9. These distinctive urban landscape qualities are recognised in the 'Area Design Focus - Bath Road, Thatcham' section of the Council's Quality Design Supplementary Planning Document 2006. This also acknowledges the changes in the nature of Bath Road along its length, advising that it is important for infill development to respect its immediate surrounding area. In that regard new development to the east (at nos. 77-79) has a setting which differs from that of the appeal site in terms of the relationship of buildings to the road, and other developments referred to by the appellant are also outside this relevant context.
10. The proposal would replace all of the existing buildings on the site and extend new development into the deep rear gardens. Wrapping around the corner and along both frontages would be a block of 3 storeys, rising to 4 storeys at the corner itself (Block B). To the rear of this would be a further 3 storey block (Block C), with a forward projection of 2 storeys adjacent to no. 129a Bath Road (Block D). The main vehicular access would be by way of a new link onto Henwick Lane, and to the north of this and at right angles to the east of no. 1 Henwick Lane would be a row of 3 storey houses (Block A).

11. The siting and height of Block D, including the set back from the frontage, would pay regard to the neighbouring development. However, the siting of Block B would amount to a marked stepping forward of the building line towards the corner as well as this Block having greater height than the surrounding development. There would be a gap in the frontage at Block D, but the overall visual effect of Block B would be rather monolithic and dominant, with the degree of articulation not sufficient to relieve this satisfactorily. This impact would be very apparent in the long views that are possible, creating an isolated contrast at the junction.
12. In these respects the proposal would have similar harmful effects to those found by the Inspector who dismissed an appeal in 2008 involving a proposal for the erection of 11 flats on the site of 139 and 141 Bath Road (APP/W0340/A/08/2064599). The design of that scheme differed considerably from the current proposal, and involved only part of this appeal site, but the Inspector's finding that it would "impose an abrupt protrusion into this somewhat gentle townscape" is equally applicable. Subsequent approvals given for the development of 11 and 12 flats respectively on that part of the site in later appeal decisions (APP/W0340/A/09/2105050 and APP/W0340/A/12/2168107) involved buildings of lower height and along shorter frontages with greater setback, thereby more closely matching the existing relevant prevailing character.
13. The SPD refers to reinforcing the Western Gateway to Thatcham, but that is identified as a location close to the roundabout further to the west. The SPD also identifies the area around the Bath Road/Henwick Lane junction as a location for improvement, and more generally suggests that buildings on corner plots can, where appropriate, be increased in height to enhance legibility. However, these factors, and the poor condition of parts of the site, do not warrant the introduction of an obtrusive form of development which would fail adequately to reflect the locally distinctive context.
14. The proposal conflicts with the aims of policy CS 14 of the West Berkshire Core Strategy 2012 for high quality design that respects the character and appearance of an area and contributes positively to local distinctiveness and sense of place, and the similar requirement of policy HSG.1 of the West Berkshire District Local Plan 2007 and the SPD.

### ***Living conditions***

#### *Neighbouring properties*

15. The flank wall of Block A would be sited some 2-3m from the rear wall of no. 1 Henwick Lane. This property appears to have its main aspect and amenity space to the front, with only non-habitable room windows and limited outside space to the rear. Nevertheless, the siting of the proposed building would be very close. Although intervening vegetation is proposed to be retained, this is a soft boundary feature and of limited height. With the proximity and height of the proposed building, it would have an overbearing impact, which would be unneighbourly to an unacceptable degree.
16. The rear garden of no. 3 Henwick Lane shares a flank boundary with the site. Houses in Block A would face towards this at a distance of some 12-13m. This garden is not entirely private and overlooking of gardens is commonplace in urban settings. However, in this case with the proposed 3 storey houses and

the number of windows that would face towards the garden and the relative proximity of these, the degree of overlooking and subsequent loss of privacy would again be an unreasonable intrusion on living conditions.

### *New dwellings*

17. The only point of concern raised by the Council with respect to the amenity of the new dwellings relates to the garden areas of the proposed houses. The sizes of these at around 50sqm fall well short of the minimum of 100sqm for 3-bedroom houses suggested by the SPD. Some flexibility in applying this is to be expected, and the site is located very near to the playing fields. The appellant points to other developments with small gardens. However, the proposed houses would be family sized dwellings for which attached good quality external amenity areas would be an important provision. With the layouts of the houses and gardens there would also be limited opportunities for privacy in the gardens. The circumstances here do not justify such a substantial shortfall below the Council's guideline, and the living conditions of the occupiers of the houses would not be acceptable in this respect.
18. Policy CS 14 seeks high quality design that makes a positive contribution to quality of life. For the above reasons the proposal does not achieve this, and also conflicts with the SPD on this matter.

### *Highways*

19. Parking within the scheme complies with the Council's standards. The proposed new cul de sac off Henwick Lane would provide access to most of the surface parking together with the basement parking area within the development. Minor points raised by the Council about the width of service margins to enable adoption of the access road could be dealt with by condition.
20. As revised this vehicular access would not incorporate a turning area for larger vehicles visiting the site. The proposed waste collection points for the dwellings would be located close to the site entrance. It could be expected that refuse and recycling vehicles would stop in Henwick Lane while collecting from the site. This would cause an obstruction in Henwick Lane relatively close to the signal junction with Bath Road. However, this would be infrequent and for a limited duration, and in a location where control on traffic flows is already imposed by the signals. The arrangement would not appear to be out of the ordinary for an urban area, and would not give rise to an unacceptable detriment to road safety.
21. Delivery vehicles visiting the development would be likely to enter the cul de sac and then be unable to turn easily within the site, leading to potentially hazardous reversing movements onto Henwick Lane. With the number of units within the development, this is likely to be a fairly common occurrence. The result would be a significant risk to road safety, with the harm to highway conditions contrary to policy CS 13 which seeks, among other things, to mitigate the impact of development on the transport network.

### *Flooding and drainage*

22. Policy CS 16 deals with flooding. It makes reference to requirements in relation to the sequential and exception tests of national policy. Among other categories of area, it applies these to Critical Drainage Areas, identified through

the Strategic Flood Risk Assessment as being those which may be at most risk from groundwater and surface water flooding.

23. The site lies at the edge of one of the Critical Drainage Areas. A site-specific Flood Risk Assessment prepared for a subsequent application on the site refers to extreme surface water flooding which occurred in Thatcham in 2007. It identifies that properties on the site were not affected by this flooding, which the FRA states represented a 1 in 169 year event. This more detailed evidence appears to indicate that the site is at low risk of flooding, and this is not disputed by the Council. Works are also taking place in the Thatcham area to mitigate the factors that gave rise to the extreme flooding.
24. Nevertheless, a requirement of policy SC 16 is that on all development sites surface water should be managed in a sustainable manner through the implementation of Sustainable Drainage Methods (SUDS). The appellant considers that this could be secured in the development by way of conditions. However, the proposal has the particular characteristics of fairly extensive site coverage and an underground car park. These are factors which are likely to have a significant bearing on the scope for a drainage scheme to move water into the ground and away from the site. In addition, no site-specific soil investigation and infiltration tests have been carried out. In these circumstances it cannot be relied upon that a satisfactory SUDS scheme that would deal with runoff without adversely affecting neighbouring land could be prepared. As such the proposal does not meet the requirements of policy SC 16 and would give rise to an unacceptable risk of worsening local drainage conditions.

### **Affordable housing**

25. Policy CS 6 sets out an expectation for affordable housing provision from residential development. Subject to the economics of provision, 30% will be sought on development sites of 15 or more dwellings on previously developed land. The policy indicates that proposed provision below this level should be fully justified by the applicant through clear evidence set out in a viability assessment (using an agreed toolkit) which will be used to help inform the negotiation process.
26. The appellant submitted an appraisal at appeal stage, and the Council has carried out a separate assessment. No affordable housing provision is proposed. In the appellant's analysis, total scheme costs at some £7.383m exceed total scheme revenues at some £7.201m. The Council calculates (as stated at the hearing) that a minimum of £0.25m should be available as an affordable housing contribution. The differences between the appraisals were explored at the hearing.
27. In reviewing the differences I generally conclude in favour of the appellant. The appellant's sales values seem to be based on appropriate comparisons, with the value of underground parking reasonably included in these where appropriate. Site acquisition costs over and above purchase values can be expected to be incurred. The alternative use value for the extant consent for 12 flats has been plausibly evidenced. Finance arrangement fees, the treatment of basement building costs, interest, and professional and sales fees as estimated by the appellant all seem reasonable. Viability is not an exact science. Policy CS 6 plainly has the provision of affordable housing as its objective, with negotiation an integral element in this. However, the National

Planning Policy Framework advises that development should provide for competitive returns. The appeal scheme would create a substantial number of market homes, which would be a significant benefit, and the evidence indicates that the particular circumstances justify an absence of affordable housing provision. This warrants a departure from the expectation of the policy and the proposal is acceptable in this respect.

### **Other Matters and Conclusion**

28. The site is in a sustainable location, and has potential for an intensification of residential use. The permissions that have been granted on part of the site are indicative of this. Although there would be no provision for affordable housing, the appeal scheme would result in a significant gain of market housing with associated economic benefits. However, the proposal has important shortcomings in terms of its effects on character and appearance, living conditions, highway conditions, and drainage.
29. The planning obligations provide for financial contributions towards facilities for highway measures, education, open space, libraries, adult social services and waste. In each case evidence has been put forward regarding the basis for calculating the sums and how they would be used to address needs that would arise from occupation of the development. The Council advises that the obligations overcome its reason for refusal based on an absence of such measures. However, the contributions do not deal with the other deficiencies of the scheme.
30. Overall the proposal is in significant conflict with the development plan. It would give rise to harm that would outweigh the benefits, and does not amount to sustainable development.
31. I have taken into account all other matters raised, including the representations both for and against the proposal. For the reasons given above I conclude that the appeal should be dismissed.

*T G Phillimore*

INSPECTOR

**APPEARANCES**

FOR THE APPELLANT:

Duncan Crook	Appellant
Nick Turner	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mark Campbell	West Berkshire Council Planning
Andrew Heron	West Berkshire Council Planning
Robin Furby	Viability consultant
John Bowden	West Berkshire Council Drainage
Paul Goddard	West Berkshire Council Highways
Cathy Dodson	West Berkshire Council Enabling
Maureen Sheridan	West Berkshire Council Enabling
Fiona Simmonds	West Berkshire Council Education
Nicky Spink	Open Space consultant
Mike Brook	West Berkshire Council Libraries
Sue Tarn	West Berkshire Council Waste

**DOCUMENT SUBMITTED AT THE HEARING**

- 1 Appellant's email dated 8 October 2014 and attachments

Richborough Estates