



Appeal Decision

Site visit made on 26 March 2024

by L Francis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 May 2024

Appeal Ref: APP/W0340/W/23/3327705

Land South of Tower Gardens, The Street, Mortimer Common, Reading RG7 3RW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant consent, agreement or approval to details required by a condition of an outline planning permission.
- The appeal is made by Mr R Barter, T A Fisher & Sons Ltd against the decision of West Berkshire District Council.
- The application Ref 23/00072/RESMAJ sought approval of details pursuant to condition No 3 of an outline planning permission Ref 19/00981/OUTMAJ, granted on 11 June 2019.
- The application was refused by notice dated 28 April 2023.
- The development proposed is Section 73: Variation of condition 6-approved plans of approved application 17/03004/OUTMAJ: This outline application comprises two parts: Part a) The erection of 110 dwellings including affordable housing, public open space and associated landscaping with all matters reserved other than access and layout; Part b) The erection of a 3FE Infant School and 900sqm GP surgery (Use Class D1) with shared parking area, with all matters reserved other than access.
- The details for which approval is sought are: Appearance, landscaping, layout and scale.

Decision

1. The appeal is allowed and planning permission is granted for Section 73: Variation of condition 6-approved plans of approved application 17/03004/OUTMAJ: This outline application comprises two parts: Part a) The erection of 110 dwellings including affordable housing, public open space and associated landscaping with all matters reserved other than access and layout; Part b) The erection of a 3FE Infant School and 900sq m GP surgery (Use Class D1) with shared parking area with all matters reserved other than access. Matters seeking consent: Appearance, landscaping, layout and scale, at Land South of Tower Gardens, The Street, Mortimer Common, Reading RG7 3RW in accordance with the terms of the application, Ref 23/00072/RESMAJ, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr R Barter, T A Fisher & Sons Ltd against West Berkshire District Council. This application is the subject of a separate decision.

Background

3. The outline planning permission reference 19/00981/OUTMAJ dated 11 June 2019 was for a scheme of 110 dwellings, infant school and GP surgery along

with public open space to the south of the site. The appellant states that they are building out this permission and reserved matters applications for all dwellings in this phased development have been approved. Work is underway on site, with Phase 1 dwellings having been completed and occupied.

4. Although described on the Council's decision notice as reserved matters for 'Appearance, Landscaping, Layout and Scale' the appeal scheme is specifically for landscaping within the public open space area to the south of the houses and includes the proposed retaining wall to the rear of Plots 51 to 56 associated with Phase 2b. The appearance of the houses in Phase 2b has been approved under another reserved matters permission.

Main Issues

5. The main issue is the effect of the appeal proposal on the character and appearance of the area.

Reasons

6. The site currently being developed for housing extends south from Tower Gardens. The land is reasonably level in the area constructed under Phase 1 but drops significantly from the southernmost part of the approved housing development, down to the boundary of the site next to a stream and a group of largely deciduous trees on the east/west axis. The landscaping and public space to the south of the site is at a much lower level than the approved houses. To the south of the stream, the land comprises fields which rise up to meet the highway at Drury Lane. There is a footpath accessible from the appeal site which runs over the field towards Drury Lane.
7. The reserved matters, the subject of this appeal, provides details of the proposed landscaping within the public open space and details of the proposed retaining wall to the rear of Plots 51 to 56 within Phase 2b. The appellant indicates that the retaining wall is required to address the ground level differences and transition between the residential and landscaped parts of the site. The drawings show that to achieve a level plot for the houses within plots 51 to 58, the land would need to be built up to the levels established by the road. The retaining wall would be at the end of the gardens of plots 51 to 56, topped by a 1.2m high close boarded fence. The rear gardens of the affected houses would be terraced. Anti climbing mesh is proposed at the lower end of the wall adjacent to the public open space. The wall would vary from 2m to 5m in height and would be a crib-wall of timber construction, reinforced with stone filled compartments.
8. The site is allocated as a residential site for up to 110 dwellings within the Stratfield Mortimer Neighbourhood Plan 2017 (NP). NP Policy SDB1 sets a series of parameters for the development of this housing site. Amongst other things, it seeks the incorporation of areas of useable, accessible open space, utilising the natural topography to create a soft edge to the residential development with attractive views into and from the surrounding countryside. Policy RS4 of the NP states that the edge of any development will be carefully designed and landscaped to blend into the surrounding rural landscape rather than creating the effect of a hard edge.
9. The approved layout of the street containing plots 51 to 58 means that the wall would follow a U shaped curve around the ends of the rear gardens of plots 51

- to 56. The key views would be from the public realm to the south side of the housing development itself as well as the public footpath which crosses the field to the south of the site boundary. There would be glimpse views from Drury Lane over to the appeal site, with more limited views in summer due to the extensive tree coverage. There are some isolated dwellings along Drury Lane from which there would also be some long views of the appeal site.
10. The proposed retaining structure would be visible from the footpath and in a distant view from Drury Lane, though as a secondary structure when seen in the context of the view of the group of houses as a whole. Whilst I recognise that the wall would not represent the transition encouraged by the NP policies, it is the approved housing which would have the greater visual presence, particularly in views from the footpath and highway to the south of the appeal site. The curve of the wall would reduce its overall impact as it would not be visible in its entirety from any one viewpoint.
 11. The public space approved within the southernmost section of the appeal site would be retained, and the appeal scheme does not propose any alterations to its extent or access. The public space in itself provides a landscaped edge to the overall development, which would also contribute to softening the appearance of the retaining wall, particularly in long views. A planting mix labelled 'woodland mix' is proposed next to the retaining wall, which includes a variety of trees and shrubs including English Oak, Field Maple, Birch, Hazel, Hawthorn and Crab Apple. Whilst the landscape planting would take time to establish, it has the potential to provide effective screening to the retaining wall.
 12. My attention has been drawn to two planning permissions¹, the applications for which were made subsequent to the Council's refusal of permission for the appeal scheme. The permission dated 1 February 2024 essentially varied the approved designs of the houses on plots 51 to 56 by adding an additional part lower storey to facilitate the lowering of garden levels resulting in a reduced height to the retaining wall. Permission was then granted in March 2024 for works including the construction of a retaining wall which is no more than 2m high, running for 100m to the rear of plots 51 to 56.
 13. Taken together, the permissions described above allow the appellant a fallback position. In terms of views from public vantage points, the visible rear elevations of the houses would be 3 storeys rather than 2, and as a consequence, the retaining wall to the rear gardens would be lower and therefore less visible. This reduction in height of the wall would however be offset by the greater visibility of built form due to the 3 storey rear elevations of the relevant houses. The appellant has however indicated that they do not wish to build out this alternative as the revised dwelling design is significantly more costly to build and results in much larger dwellings than originally approved. The appellant also has concerns over the market for larger homes in this area.
 14. The fallback position would offer a reduction in the extent and height of the retaining wall. The overall effect would, however, not reduce the built form which would be visible from the key public vantage points, as the overall ridge height of the houses in plots 51 to 58 would remain the same. In long views of the development site as a whole, I do not consider there would be a significant

¹ Ref 23/02527/RESMAJ dated 1 February 2024 and 23/02548/FULMAJ dated 6 March 2024

difference in terms of the overall view of built form between the appeal proposal and fallback position.

15. I have taken the fallback position into account in my decision. Whilst it offers an alternative scheme, it does not indicate that the appeal proposal should be dismissed. I have found that the appeal proposal would be acceptable in terms of its effect on the character and appearance of the area, particularly in terms of the views from public vantage points to the south of the appeal site. The landscaping scheme would assist in softening and breaking up the views of the retaining wall.
16. As such, I find the proposal is consistent with the overall aims of Policies ADPP1, ADPP6, CS14 and CS19 of the West Berkshire Core Strategy and NP Policies SDB1 and RS4. Taken together and amongst other things, these policies set out the Council's spatial development strategy, confirming Mortimer as a location for future development, as well as requiring high quality and sustainable design which has regard to local character, and ensuring development conserves and enhances local landscape character. The NP Policies SDB1 and RS4 specifically relate to the housing site and amongst other things, aim to ensure the development site blends into the surrounding rural landscape.

Other Matters

17. There is no dispute regarding the landscaping detail and planting scheme, and I have no reasons to disagree with the Council's assessment of it.

Conditions

18. The Council has provided some suggested conditions which I have considered against advice in the National Planning Policy Framework and Planning Practice Guidance; as a consequence I have amended or omitted some of the suggested wording. I have attached a plans condition (1) as this provides certainty. Condition 2 requires the completion of the landscaping scheme within 1 planting season following completion of the buildings or first occupation of the dwellings and is necessary to ensure the appearance of the open space is acceptable. Condition 3 requires details of the fences at the bottom of the relevant gardens, then requires them to be provided prior to occupation of the relevant house. This is necessary to ensure an appropriate and safe boundary treatment. A condition (4) to secure details of the ongoing maintenance of the retaining wall is necessary in the interests of maintaining its appearance and safety.
19. The Council and interested parties make reference to the need for a Section 106 legal agreement to secure the ongoing maintenance arrangements for the wall. Planning Practice Guidance advises that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition (Paragraph: 003 Reference ID: 23b-003-20190901 updated 1 September 2019). I am satisfied that the ongoing maintenance of the wall could reasonably be secured by planning condition.
20. I have omitted the Council's suggested condition linking the reserved matters approval to the outline permission as it is unnecessary, and the link is clear from the description of development. I have also removed Council's suggested condition 3 since it is not necessary as the location of the retaining wall would

not impact upon the approved garden space. Finally, in relation to the suggested condition requiring planting of the wall itself, I do not consider this necessary due to the planting shown on the landscaping scheme which would eventually provide natural screening to the wall.

Conclusion

21. I have found that the proposal is in line with the development plan read as a whole, and the material considerations in this case do not indicate that a decision should be taken otherwise than in accordance with it. For the reasons set out above, the appeal is allowed.

L Francis

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
Site location plan ref 2095 P 01 rev A; 300-2200064-SK1; 300-2200064-SK2; 300-2200064-SK3; Planting and seeding plan JSL2770-510 Rev G; Tree and shrub palette JSL2770-550 Rev A; landscape ecological management plan JSL2770-580 Rev 4; Southern Open Space – Soft Landscape Specification JSL2720 2.0 January 2023 including JSL2720-571; 21-1099-060 Rev A; 21-1099-061-A; 21-1099-063.
- 2) All soft landscaping works for phase 2b of the development shall be completed in accordance with the approved soft landscaping details (as listed in condition 1 above) within the first planting and seeding seasons following completion of the buildings / first occupation of any of the new dwellings within plots 51 to 56, whichever is the sooner. Any trees, shrubs, plants or hedges planted in accordance with the approved scheme which are removed, die, or become diseased or become seriously damaged within 5 years from the completion the approved soft landscaping scheme shall be replaced within the next planting season by trees, shrubs or hedges of a similar size and species.
- 3) Each dwelling which backs onto the retaining wall shall not be occupied until details of the fence to the top of the retaining wall for that dwelling has been submitted to and approved by the local planning authority. The approved fence shall be provided prior to first occupation and maintained for the life of the development according to the details approved.
- 4) No dwelling which backs onto the retaining wall shall be occupied until details of how the retaining wall is to be maintained have been submitted to and approved by the local planning authority. The wall shall then be maintained for the life of the development, according to the details approved.