

SECTION 78 OF THE TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)

GROUNDNS OF APPEAL

Appellant:	Kennet Properties
Local Planning Authority:	Reading Borough Council (RBC)
Reference:	09/01360/OUT
Site:	Reservoir and Pumping Station, Bath Road, Reading RG1 6PG
Description:	Redevelopment of the former Thames Water reservoir site to include an outline application for between 80-96 residential units (access only) and a full planning application for the conversion and extension of the Grade II listed Water Tower for office use on the first, second and third floors and office/community use on the ground floor and associated car parking and landscaping.

1) Introduction

- 1.1 The application forming this appeal was submitted to RBC on 4 August 2009 and registered on 24 August 2009. A listed building application (ref:09/01359/LBC) in respect of works to the Grade II listed Water Tower was also submitted at the same time and is also subject to an appeal application.
- 1.2 The hybrid application was recommended for approval by the planning officer following a thorough assessment of all the issues involved and was supported by all professional officers of RBC (subject to planning conditions/S106 obligations). No objections were raised by the following consultees - Natural England, English Heritage, the Environment Agency or Network Rail.
- 1.3 Despite this level of professional support for the proposed appeal scheme, Members of the Planning Applications Committee unanimously decided to refuse the application (and the listed building application) at the meeting on 7

October 2009. Officers were instructed to formalise the reasons for refusal for consideration by Members at the next meeting scheduled for 4 November 2009. The reasons for refusal are set out in the decision notice dated 10 November 2009.

1.4 The appellant considers that in determining the application, RBC's Planning Committee failed to properly apply the requirements of S38(6) of the Planning and Compulsory Act 2004 in refusing planning permission, contrary to the professional recommendation of the planning officer. The appellant contends that the proposed development complies with the relevant components of the statutory Development Plan namely:

- Regional Spatial Strategy for the South East of England (May 2009); and
- the 'saved' policies of the adopted RBC Local Plan (1998) and the adopted Core Strategy (2008).

1.5 It is contended that none of the reasons for refusal can be substantiated and detailed arguments will be provided in the Appellant's Statement of Case and in due course within the Proofs of Evidence produced by the Appellant's witnesses. In brief, the following statements reflect the Appellant's response to the Council's reasons for refusal although it should be noted that this response is not intended to be exhaustive.

2) Responses to the Reasons for Refusal

2.1 The responses below refer to the reasons for refusal as numbered in the Council's original decision notice:

2.2 (Reference Reason for Refusal No.1) – There is clear policy support for residential redevelopment of this site through Policy HSG1 which is proposed to be carried forward in the emerging Site Allocations DPD, albeit this is at an early stage in the consultation process.

2.3 The draft Planning Brief for the site at paragraph 5.1 proposes that the site accommodates **at least** 80 units. The application is for between 80-96 dwellings which clearly accords with existing policy requirements. The

density of the scheme has been reduced from the previous application (which was submitted in August 2008 and subsequently withdrawn) as a result of both officer comments and local objections. The density of the site (excluding the wildlife area and water tower site) equates to 53dph which falls within the 'accessible urban' density guidelines as set out in Policy CS15 (35-55dph) and meets the requirements of a minimum 40dph set by the South East Plan and a minimum of 30dph set out in PPS3 (paragraph 47).

- 2.4 The report to Committee states that officers advise that the proposed residential development of the site for 96 dwellings is in accordance with 'saved' Policy HSG1 and is consistent with national (PPS1 and PPS3) and relevant South East Plan policy and guidance in using an existing developed site in a sustainable urban location close to relevant infrastructure and amenities for residential use. The Committee report also sets out (page 147) that officers were satisfied that the site could accommodate up to 96 residential units of the type and mix specified within the site. As such, the Council's objection to the amount of development proposed does not appear to have any planning policy basis.
- 2.5 The second half of the reason for refusal refers to the impact of the proposed development upon the open character of the site, its function as a wildlife area and the setting of the Grade II listed water tower. The proposed application has gone through a series of significant changes since the withdrawal of the previous scheme. These changes have resulted in an acceptable form of development coming forward to the satisfaction of Council officers, English Heritage, Natural England and the Environment Agency. The proposed scheme will maintain and enhance the most important elements of the site including the proposed wildlife area, the listed water tower and pump station whilst providing much needed housing including affordable accommodation within a mix and balanced scheme.
- 2.6 Please also refer to our responses to reasons for refusal nos. 6, 7, 8 and 11 with respect to the impact of the scheme upon the open character of the site, wildlife function and setting of the listed water tower.
- 2.7 (Reference Reason for Refusal No.2) – The proposed mix of units (based on the maximum 96 unit scheme as shown on the submitted illustrative

masterplan), is as follows: 8% would be 1-bed apartments; 32% would be 2-bed apartments; 12% would be 2-bed houses; 29% would be 3-bed houses and 19% 4-bed houses. Whilst the Council alleges that insufficient family dwelling houses are being provided referring back to the draft 1997 Planning Brief which states that the most pressing need is for 2-3 bedroom semi-detached or terraced family houses with gardens, the recently adopted Core Strategy requires at least an element of family housing as a priority. At least 60% of the proposed units could be considered to be family housing with gardens.

- 2.8 The Planning Brief dates back to 1997 (over 13 years ago) and the findings of the 2006 Berkshire Housing Market Assessment and the Core Strategy provide a more up-to-date assessment of the current housing need in Reading. The Core Strategy through Policy CS15 (*Location, Accessibility, Density and Housing Mix*) recognises the need to provide for a mix of housing types, sizes and tenures based on the findings of the 2006 Berkshire Housing Market Assessment. The assessment found that a high proportion of need is for the accommodation of smaller households, but also advises that developments should also cater for families, the elderly, the disabled and those with special needs.
- 2.9 The Council's Housing Department commented that the scheme includes much needed family housing and offers a general mix of different sizes and types of housing that is welcomed. On this basis, they raised no objection to the proposed scheme. The appellant therefore contends that there is no sound planning justification to refuse consent based upon the proposed mix of dwellings.
- 2.10 (Reference Reason for Refusal No.3) – The Council's SPD (*Sustainable Design and Construction*) requires that 50% of proposed units should seek to meet the Code for Sustainable Homes level 4. The submitted Code of Sustainable Homes Pre-assessment Report includes a strategy for achieving 20% reduction in predicted carbon dioxide emissions from the use of renewable resources and code level 3. The 20% reduction target is to be met through ensuring that the energy consumption of the units is kept to a minimum and then by applying cost efficient renewable technologies, such as, solar collectors, ground source heat pumps and through installation of 'A'

rated energy efficient appliances. The appellant agreed to increase the target code level to 4 for 25% of the units which was reported to members as being reasonable given the circumstances of the site and its constraints and the other S106 contributions that the appellant agreed to meet including an increase in the affordable provision to 35%.

- 2.11 The submitted information clearly demonstrates that the proposed development would use resources efficiently taking into account the effect of climate change and therefore, meets the objectives of Policy CS1 and the SPD which can be secured by condition as recommended by the planning officer.
- 2.12 (Reference Reason for Refusal No.4) – The proposed scheme has been amended taking into account comments received to the previous withdrawn scheme. In the area directly behind the frontage buildings the maximum storey heights of the units have been reduced to 2-2.5 storey (nos.10/11, 77-88 and 38-43 as shown on the illustrative masterplan) and the units (38-43 and 10/11) have been amended to sit further away from the pump house. Combined with the reduction in the size and footprint of the extension to the water tower, this results in an increase in the area of open space surrounding the two existing buildings which in turn will ensure a spacious setting and allow for increased levels of landscaping. Whilst the scheme proposed is illustrative, the officer's report to Committee (page 154) clearly highlights that the changes proposed would maintain the buildings prominence and that the proposed residential blocks would form part of an acceptable setting to the development.
- 2.13 Neither English Heritage nor the Council's urban design officer raised any objections with respect to the schemes impact upon the setting of the listed water tower or the pump house.
- 2.14 (Reference Reason for Refusal No.5) – The Council's Planning Brief for the site is clear that whilst it is a preference that the embankments are retained, it recognises that this can only be done so far as is possible. In bringing forward development on this site, the environmental conditions of the site are likely to alter and therefore, it is not possible to confirm that the embankments would remain stable. Also the appellant is keen to promote an inclusive and

accessible development that does not close itself off from the surrounding residential environment and thereby, creating a feeling similar to that of a private gated development, where resources such as open spaces can only be used by those within the development.

- 2.15 The proposed scheme provides a clear enhancement in terms of publicly accessible open spaces. Whilst precise details of the public/private areas will be provided at the reserved matters stage, the illustrative layout does give an indication as to how the site could be developed. The development platform level has also been reduced to 0.75m above Western Road and proposed properties reduced in height to a maximum of 2.5 storeys. In all, these elements of the scheme will ensure the amenity of neighbouring properties is not unduly affected.
- 2.16 (Reference Reason for Refusal No.6) – This reason for refusal specifically refers to the loss of open space within the site and not the proposed level of open space to be provided for the 96 unit scheme as detailed on the illustrative masterplan. Currently, the site remains operational and there is no authorised public access onto the site which is privately owned by the appellant. The height of the embankments and lack of views into the site from public vantage points severely limits the sites visual amenity benefits. As such, there is no conflict with Policy CS28 (*Loss of Open Space*).
- 2.17 The proposed scheme provides a clear enhancement in terms of publicly accessible open spaces. Whilst precise details of the public/private areas will be provided at the reserved matters stage, the illustrative layout does give an indication as to how the site could be developed. As reported to Committee, the provision of 0.2ha of public open space complies with the Council's Open Spaces Strategy, and combined with the retained wildlife area (0.44ha), represents an increase in open space in this area given that the existing site is private and fenced off at present.
- 2.18 (Reference Reasons for Refusal Nos.7 and 8) – As part of the design development process, Entec was commissioned in March 2009 to undertake an ecological impact assessment. The report sets out a number of mitigation measures which will be incorporated as part of the development proposals to minimise any adverse effects of the development on biodiversity. The

scheme proposes to conserve and improve the area to the west of the site which has been identified as containing the greatest level of ecological interest. It also runs adjacent to the Reading to Basingstoke Railway line Wildlife link as identified on the adopted Proposals Map. As part of the scheme it is proposed to introduce a habitat management plan for the retained area and allow limited access to this area by the provision of a dedicated footpath with interpretative boards informing people about the ecological importance of the area.

2.19 In respect of the on site woodland, Entec concluded that the secondary woodland which has grown within the empty northern reservoir basin is of secondary nature and supports very limited ground flora, comprising only common and widespread species. Therefore, its removal will not result in any likely significant environmental effects. Natural England raised no objections to this application. In addition, the Council's own ecologist assessed the application and also raised no objections subject to appropriate conditions and S106 obligations to secure the ecological value of the site as identified by the Entec report. As reported to Members, the officers were satisfied that the application supplied sufficient information to demonstrate that the development would not have an adverse impact upon features of biodiversity interest (i.e. bats, birds, slow worms and stag beetles) and, therefore, the proposal is in accordance with Policy CS36 (*Biodiversity and Geology*), CS38 (*Trees, Hedges and Woodlands*) and 'saved' policies NE6 (*Protecting Wildlife Habitats and Natural Features on or Adjoining Development Sites*) and NE7 (*Creative Nature Conservation*).

2.20 (Reference Reason for Refusal No.9) – The application would involve the loss of one street tree along Bath Road and all of the trees which have self-seeded within the northern reservoir. These trees are of low quality with little amenity value as they are largely within the bowl of the rear reservoir and difficult to view from public vantage points, such as Bath Road or Western Road. The submitted arboricultural report highlights the trees which are of merit including an oak and turkey oak. The loss of these two trees will be mitigated by new tree planting. The trees located on the boundary within the grounds of the nursing home immediately east of the site are to be protected by tree protection fences and no dig construction zones. A detailed woodland management plan and landscape scheme involving the planting of new

