
Appeal Decision

Site visit made on 31 August 2016

by Rory Cridland LLB (Hons)

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

Decision date: 7 October 2016

Appeal Ref: APP/E1210/W/16/3151483

The Meridians, Stour Road, Christchurch, Dorset

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Christopher Hill, Taylor Wimpey West London Ltd against the decision of Christchurch Borough Council.
 - The application Ref 8/15/0708, dated 18 November 2015, was refused by notice dated 13 April 2016.
 - The application sought planning permission for the erection of 14 x 2/3 storey dwellings, 3 bungalows and 64 Flats with garaging/parking provision & construction of access roads without complying with a condition attached to planning permission Ref 8/88/0255f, dated 13 June 1988.
 - The condition in dispute is No 9 which states that: "The existing boundary planting between the points since endorsed D-D on the attached approved plan shall be retained."
 - The reason given for the condition is: "In the interests of amenity."
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect that removing the condition would have on the living conditions of neighbouring occupiers with particular regard to outlook and light.

Reasons

3. The appeal site forms part of the boundary treatment between The Meridians estate and the flats in neighbouring Fairway Drive. It currently consists of a large cypress hedge which has grown to a considerable height and is visible from a number of vantage points. In view of its considerable size, it is prominent in both the Meridians estate and from the flats along Fairway Drive and makes a significantly positive contribution to the verdant character of its surroundings. Nevertheless, in view of its considerable size it poses a number of difficulties in terms of its on-going management.
4. The removal of the condition would allow the management company to take out the hedge and replant it with a more manageable landscaping scheme. Policy ENV 21 of the Borough of Christchurch Local Plan¹ gives high priority to

¹ (2001)

both the amount and quality of landscaping in the interest of amenity, landscape and wildlife. Wherever possible, existing landscaping features should be retained and, where new planting is proposed the policy encourages the use of native species.

5. The appellant accepts that in the event that the landscaping was removed and no replacement provided, it would be detrimental to the amenity of local residents. However, he argues that the replacement planting proposed would be sufficient to mitigate the harm, and, over time, act as a suitable replacement. For the reasons set out below, I do not agree.
6. The existing hedge essentially functions as a line of large mature trees providing both screening and landscaping to the benefit of the residents on both sides. Its loss would open up views between the estates, materially altering their outlook and considerably increasing the amount of built form which would be visible. Both the amount and quality of the landscaping would be considerably reduced. In the short term, the privet hedge and comparatively small number of trees situated adjacent to the boundary in Fairway Drive would not provide any significant level of screening or reduce the overall harm to acceptable levels. Even in the longer term, their replacement with hornbeam, while more manageable, would result in a far more open boundary, exposing both developments to views from the other on a more permanent basis. This would materially degrade the outlook for the residents of both estates.
7. However, being sited on the boundary, the hedge not only affects the residents of The Meridians but also those of the adjacent flats on Fairway Drive, a number of whom have raised concerns regarding the loss of light currently experienced. When viewed from this side of the boundary, the hedge is reasonably close to the rear elevations of the blocks of flats and is more imposing. In its current state, it clearly reduces light levels, particularly for those residing on the ground floor. While I note the concerns expressed by the occupiers of those flats, particularly regarding the loss of light during the winter months, I observed that there is sufficient separation to ensure that, with a suitable reduction in height, the impact on light levels could be significantly reduced. As such, I consider that issues regarding a loss of light to these areas can be suitably overcome without resulting in the hedge's complete loss.
8. Similarly, while I note the assertion that to prune the hedge back to a manageable shape and size would result in a series of bare cut branches with no chance of regeneration, little in the way of robust evidence has been provided to support this. In view of their significant height, it appears to me that there are a number of options for reducing these trees to a more manageable size which would help preserve their contribution to the outlook currently enjoyed. The appellant has not demonstrated that it would not be possible, either economically or practically, to retain them and in the absence of such evidence I cannot be satisfied that their loss would be justified.
9. Consequently, I have found that removing the condition would materially degrade the existing outlook enjoyed by neighbouring occupiers. Furthermore, I do not consider the proposed scheme for a replacement hedge to be sufficient to act as a suitable replacement and mitigate the harm which would result. In the absence of evidence that its retention is not practically or economically viable, I find that the proposal would be contrary to LP Policy ENV21 which,

amongst other things, seeks to retain existing landscaping wherever possible. While I acknowledge the impact on light levels for the residents of Fairway Drive, I am satisfied that this can be adequately dealt with by reducing the height of the hedge to a more acceptable level.

Other Matters

10. The Council has also raised concerns that the removal of this hedge would result in the loss of an important habitat for nesting birds. However, no robust evidence has been provided which indicates that the extent of nesting taking place is significant or that the loss of these trees would have any material impact on the availability of bird nesting sites in the wider area. As such I have not given it any significant weight in my consideration of this appeal.
11. The appellant has referred to the requirements of the high hedges legislation. However, applications under that regime subject to a different procedure and fall outside the scope of the Section 78 appeals process. In any event, the eventual height of hedges subject to applications under that procedure are determined with reference to a number of factors and would not necessarily result in a reduction to the 2m height suggested. As such, it does not provide sufficient reason to grant planning permission for the development proposed.

Conclusion

12. For the reasons set out above, I conclude that the appeal should be dismissed.

Rory Cridland

INSPECTOR