
Appeal Decision

Site visit made on 4 October 2016

by Rory Cridland LLB (Hons)

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

Decision date: 15 November 2016

Appeal Ref: APP/C1760/W/16/3151484

The Bungalow, Top Green, Lockerley, Hampshire SO51 0JP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr D Thackery against the decision of Test Valley Borough Council.
 - The application Ref 16/00403/FULLS, dated 8 February 2016, was refused by notice dated 21 April 2016.
 - The development proposed is construction of two dwellings following demolition of existing bungalow.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The Council's second reason for refusal relates to the absence of a legal agreement in respect of contributions towards highway and public open space infrastructure, affordable housing and the New Forest Special Protection Area (SPA). However, within its written evidence the Council has confirmed that it wishes to withdraw those parts of the refusal reason which relate to highways, public open space and affordable housing, while maintaining that part which relates to the New Forest SPA. I have determined the appeal on this basis.

Main Issues

3. The main issues are:
 - (i) the effect of the proposed development on the character and appearance of the surrounding area;
 - (ii) whether the proposal makes suitable provision for the disposal of sewage; and
 - (iii) the effect of the proposal on biodiversity.

Reasons

Character and appearance

4. The appeal site is located in the village of Lockerley in an area known as Top Green, a triangular area of green space which is surrounded by a single row of houses sited in large plots with wide gaps between them. These gaps form an intrinsic part of the character of the surrounding area and provide good views
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over the nearby countryside. This, along with the central green space, helps give the area an open and spacious feel.

5. The appeal site itself is located to the north of the green and consists of a modest bungalow on a large plot along with a detached garage. Its siting currently results in a spacious gap between itself and its neighbour, Tall Bungalow which generally reflects the spacing between properties along this part of Top Green.
6. The proposal would result in the demolition of the existing structures and their replacement with two detached dwellings each with their own detached garage. Although the plot is large enough to accommodate two dwellings, its subdivision would result in a significantly smaller gap between the new properties than those nearby. This would appear at odds with the surrounding development and would be harmful to the wider character of the surrounding area. Furthermore, the reduction of the existing gap between the appeal site and Tall Bungalow would result in a row of three dwellings where the gaps between them was materially smaller than is the norm. This would create a cramped appearance along this corner of the green, materially eroding its spacious feel and negatively impacting on the overall appearance of the surrounding area.
7. While I note that there are some examples to the south and west where the gaps between the properties are smaller, in most cases this is compensated for by a reduction in overall bulk and size. In contrast, the appeal proposal, with its increased bulk and height, would have a far greater impact on the spacious and open character of the wider area. As such, these existing properties do not, in my view, provide a justifiable precedent for the development proposed.
8. Consequently, I find that the proposal would result in a cramped appearance which would be harmful to the character of this section of Top Green. As such, it would be contrary to Policies SD1, E1 & E2 of the Test Valley Borough Revised Local Plan 2016 (LP). These policies, amongst other things, seek to ensure that new development is of a high quality design which integrates, respects and complements the character of the area. They also seek to restrict development which would have a detrimental impact on the appearance of the immediate area. I do not, however, find a conflict with LP Policy LHW4 which is concerned with protecting the amenity of future and neighbouring occupiers.

Sewage Disposal

9. The proposal would include a Package Treatment Plant (PTP) to the front of the site. Planning Practice Guidance indicates¹ that the first presumption is to provide a system of foul drainage into a public sewer to be treated at a public sewage treatment works. Where a connection to the public sewer is not feasible (ie. in terms of costs and/or practicality) a PTP can be considered. It also advises that applications for developments relying on anything other than connection to a public sewer should be supported by sufficient information to understand the potential implications for the water environment.
10. While I note that the appellant asserts that there is no mains sewer in Top Green, the consultation response from Southern Water indicates that it is possible that, following legislative changes, a sewer now deemed to be public

¹ Ref ID 34-020-20140306

could be crossing the site. The appellant has not provided any robust evidence which establishes that there is no public sewer present and in the absence of such, I cannot be confident that a connection to the public sewer is not feasible.

11. Consequently, I find the proposal would be contrary to LP Policy E8 which seeks to ensure that new development does not result in unacceptable risks from pollution. It would also fail to accord with the Planning Practice Guidance set out above.

Biodiversity

12. LP Policy E5 seeks to conserve biodiversity by, amongst other things, ensuring that development which would be likely to result in the loss, deterioration or harm to habitats or species of importance are not permitted other than in a limited number of circumstances.
13. Furthermore, Circular 6/2005 advises that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the grant of planning permission. This is to ensure that all relevant material considerations have been addressed in the decision making process.
14. The site is in an area of higher quality bat foraging habitat and the Council considers there to be a reasonable likelihood that bats may be present on the site. At the time of determination, no ecological report was available which would allow an assessment of the development's ecological impact. However, as part of this appeal the appellant has provided such a report which concludes that the buildings have insignificant bat potential due to a lack of roosting features. Furthermore, it also concludes that there would be no significant impact on the local population of any protected species. These findings have not been challenged by the Council and, in the absence of any evidence to the contrary, I see no reason to conclude otherwise.
15. Accordingly, I am satisfied the development would not result in the deterioration or harm to habitats or species of importance. As such, I find no conflict with LP Policy E5.

Other matters

16. The reasons for refusal set out in the decision notice refer to the impact that the proposed development would have on the SPA. As part of this appeal the appellant has submitted a planning obligation that secures adequate mitigation in accordance with the Council's adopted mitigation strategy. As such I am satisfied that, if the circumstances leading to the grant of planning permission had been present, the proposal would be unlikely to have a significant effect of the SPA.

Conclusion

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

Rory Cridland

INSPECTOR