

Appeal Decision

Site visit made on 29 November 2016

by David Cliff BA Hons MSc MRTPI

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

Decision date: 17th January 2017

Appeal Ref: APP/X1735/W/16/3158213

Tamarisk, Ferry Road, Hayling Island, Hampshire PO11 0DG

- 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 Mrs Lisa Montague against the decision of Havant Borough Council.
 - The application Ref APP/15/01355, dated 30 November 2015, was refused by notice dated 4 May 2016.
 - The development proposed is demolition of existing dwelling and construction of new dwelling with associated landscaping and improvements to sea-defences.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing dwelling and construction of new dwelling with associated landscaping and improvements to sea-defences in accordance with the terms of the application APP/15/01355, dated 30 November 2015, and subject to the conditions in the attached schedule.

Preliminary Matter

2. During the course of the appeal, the appellant submitted further information comprising an additional assessment of the potential daylight and sunlight effects of the proposal upon the neighbouring residential property. Both the Council and the occupiers of the neighbouring property were subsequently provided with an opportunity to comment on this additional information and the responses received have been taken into consideration in my reasoning below.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of the occupiers of the neighbouring property (The Deck House) with particular regard to outlook, light and privacy.

Reasons

4. The Deck House contains two side windows serving rooms directly facing the appeal proposal. However, these are bathroom/toilet windows rather than main habitable room windows and therefore the impact upon them in terms of outlook and light would be limited.
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5. The two storey east elevation of the proposal would be located close to the side boundary with The Deck House and would be of a substantial length. A single storey element projects further to the rear but is also located further from the boundary with The Deck House.
6. At the rear, the two storey part of the proposal would project slightly further to the rear than the neighbour's rear balcony. The balcony also forms a canopy over an amenity area below, the ground floor rear windows set further inwards. The main outlook directly to the rear from the balcony and rear windows would not be significantly affected. Whilst its height and massing would result in the flank wall of the proposal being assertive in appearance when viewed at an angle from the rear windows, balcony and amenity area of the Deck House, given the proposal's limited projection to the rear, I do not consider that this would be so significant so as to result in any unacceptable impacts in terms of either outlook or light.
7. At the front, the proposal would also project further forward from the neighbouring first floor bedroom windows and slightly further forward than the front of the balcony. This projection would again not be so significant to lead to unacceptable impacts with regard to light and outlook.
8. I agree with the Council that the proposed balcony/roof terrace would be likely to be well used by future occupiers of the replacement dwelling. However, whilst part of it would be located fairly close to the side boundary shared with The Deck House, the majority of it would be located on the other side of the new dwelling. The appellant has also agreed to a condition that would require a privacy screen to be erected on its eastern side. As a result of these factors, I do not consider that the proposal would result in any unreasonable loss of privacy for the occupiers of the neighbouring property.
9. The Deck House has a study with a front facing window in close proximity to the side boundary with the appeal property. The proposed dwelling would protrude significantly forward of the line of this window and, whilst the study window is recessed under the front porch enclosure, it would restrict the outlook from the window resulting in a reduction in the level of light reaching the room. Nevertheless, whilst this would lead to an impact on residential living conditions for that individual room, I do not consider that this impact would be so significant to result in unreasonable impacts on the overall living conditions currently enjoyed by the occupiers of The Deck House.
10. Whilst the flank wall of the proposed dwelling would be of a substantial size and would be an assertive feature when viewed from the neighbouring site, taking account of my reasoning above, I do not consider that the resulting impacts on neighbouring living conditions would be unacceptable. Furthermore, the proposed chimney would not be of such a form or size to lead to any significant impact upon neighbouring residential amenity.
11. In conclusion on the main issue, I do not consider that the proposed development would result in unreasonable or unacceptable impacts upon the living conditions of the occupiers of The Deck House. It would satisfactorily accord with the relevant amenity aims of policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

Other matters

12. Ferry Road is characterised by a variety of building designs and forms. Whilst being larger than some other properties on the road, the proposal would not appear as excessively larger than the prevailing form of development in the locality. The roofs of existing properties on Ferry Road are also of a mixed appearance and the introduction of a flat roofed property, taking account of its contemporary design, would not appear as incongruous or out of place in this location. The height of the flat roof would be higher than the eaves level of The Deck House but it would be substantially lower than its ridge level, and that of other nearby properties on Ferry Road. The chimney would also not be of such significant size to be unacceptably intrusive. The two storey form and contemporary design of the proposal would respond appropriately to the character and visual appearance of the area and would not appear as intrusive within the street scene or surrounding locality.
13. The proposal is for a replacement dwelling and it is therefore unlikely to result in a significant effect on European protected sites. Subject to a condition requiring the approval of a Construction Environmental Management Plan to prevent harm during construction including from noise, pollution and dust, no adverse impacts are likely to result upon the foreshore area of Langstone Harbour. Furthermore, there is no detailed evidence to suggest that the site contains any protected species or other significant ecological interest.

Conditions

14. An approved plans condition is necessary to provide certainty to what has been approved. Details of external materials, landscaping, enclosures and screening are all necessary to safeguard the character and appearance of the area, and, in the case of enclosures and screening, to safeguard the living conditions of the occupiers of the neighbouring residential property. A condition requiring the provision of access, parking and a turning area is necessary in the interests of highway safety and to provide for on-site parking.
15. The requirement for the existing dwelling to be removed and all resulting materials removed from the site is necessary in order to provide for a satisfactory form of development, safeguarding the appearance and amenity of the area. A condition requiring compliance with the measures proposed in the applicant's Flood Risk Assessment is required to prevent future occupiers from any significant risk of flooding. I have shortened this condition from that suggested by the Council in order to be more precise.
16. The Council has suggested three conditions to safeguard ecology and wildlife interests including the adjacent European protected site. I consider that, in order to be more precise, the required measures are best suited to be wrapped up into a single condition requiring the submission and approval of a Construction Environmental Management Plan. The wording of the condition imposed includes each of the elements required by the Council.
17. The Council has also suggested a condition removing permitted development rights for extensions or building alterations to the approved dwelling. The Government's Planning Practice Guidance advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. Whilst the reason for this Condition has been stated as *to safeguard the amenities of the locality and*

occupiers of neighbouring occupiers no further justification has been provided to demonstrate that exceptional circumstances apply in this case. I therefore do not find it necessary to attach this condition.

18. I have made alterations to the wording of several of the conditions suggested by the Council in the interests of preciseness and clarity, but these do not alter the essence of the requirements sought by the conditions.

Conclusion

19. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

David Cliff

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. Unless varied by other conditions of this decision, the development hereby permitted shall be carried out in accordance with the following approved plans: 1505-PP-100 Rev-A, 1505-PP-110, 1505-PP-150-Rev A, 1505-PP-200-Rev A, 1505-PP-201-Rev A, 1505-PP-202-Rev A, 1505-PP-300-Rev B, 1505-PP-400-Rev B and 1505-PP-401-Rev B.
3. No development other than demolition shall take place until details and/or samples of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
4. The development hereby permitted shall not be occupied until further details of the landscaping works shown on the approved plans have been submitted to and approved in writing by the Local Planning Authority. The landscaping shall be carried out in accordance with the approved details and in accordance with any timing or phasing arrangements approved or within the first planting season following first occupation of the development hereby permitted, whichever is sooner. Any trees or shrubs planted or retained in accordance with this condition which are removed, uprooted, destroyed, die or become severely damaged or seriously diseased within 5 years of planting shall be replaced within the next planting season by trees or shrubs of similar size and species to those originally approved.
5. The development hereby permitted shall not be occupied until details of the positions, design, materials and type of any boundary treatment, screens and retaining walls to be erected have been submitted to and approved in writing by the local planning authority and subsequently erected in accordance with the approved details. The approved boundary treatment, screens and retaining walls shall be subsequently retained.
6. The development hereby permitted shall not be occupied until means of vehicular access, vehicular parking and turning areas have been constructed in accordance with drawing number 1505-PP-150-Rev A. The access, parking and turning areas shall be thereafter retained.
7. The development hereby permitted shall not be occupied until the existing dwelling has been demolished and all resulting materials removed from the site.
8. Notwithstanding the approved plans, the rear balcony/first floor terrace hereby permitted shall not be brought into use until details of a 1.8m high screen to its eastern side have been submitted to and approved in writing by the Local Planning Authority and subsequently erected in accordance with such approved details. The screen shall thereafter be retained in accordance with the approved details.
9. The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment (FRA) October 2015 (reference 2398)

prepared by Ambiental, including the proposed mitigation measures as set out in the FRA.

10. Prior to the commencement of the development hereby permitted (including any demolition) a Construction Environmental Management Plan (CEMP) shall be submitted to and be approved by the Local Planning Authority. The CEMP shall include details relating to the control of dust, pollution, noise (including from any percussive piling or works with heavy machinery) and waste during the entire construction process, along with any works to be carried out to the sea wall. The development shall be carried out in accordance with the approved CEMP.