

Appeal Decision

Site visit made on 10 January 2017

by Nick Fagan BSc (Hons) DipTP MRTPI

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

Decision date: 31st January 2017

Appeal Ref: APP/C1760/W/16/3159612

Indalo, Chilworth Road, Chilworth, Southampton, Hampshire SO16 7JS

- 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 Yvonne Bajar against the decision of Test Valley Borough Council.
 - The application Ref 16/00287/FULLS, dated 24 January 2016, was refused by notice dated 5 April 2016.
 - The development proposed is the erection of a detached dwelling with associated works.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mrs Yvonne Bajar against Test Valley Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. Paragraph 2.7 of the Council's appeal statement states that it is no longer contesting refusal reasons 3 and 4 relating to the absence of financial contributions towards off-site public open space and affordable housing respectively.
4. Paragraph 2.9 of its appeal statement says that the signed S106 Unilateral Undertaking dated 5 December 2016 provides the necessary financial contributions towards mitigating the impacts of the development on the New Forest Special Protection Area (SPA) and the Solent and Southampton Water SPA sufficient to overcome its fifth refusal reason. However, since I am dismissing the appeal there is no need for any further consideration of this issue.

Main Issues

5. Consequently the main issues are the effect of the proposal on the character and appearance of the area with particular reference to Policy E4 of the Test Valley Revised Local Plan 2011-2029 (LP), and its effect on the living conditions of the occupiers of Indalo with particular reference to overlooking.
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Reasons

Character and Appearance

6. The appeal site is located in an area characterised by large houses generally in large plots set back from the main road on the northern edge of Southampton near the confluence of the M3 and M27 motorways. Chilworth is designated as a Residential Area of Special Character (RASC), such areas mainly consisting of low density developments of substantial houses generally set in mature landscaped settings located on major approaches to built-up areas¹.
7. The site is accessed by a long private access road just south of the bridge which carries the Chilworth Road over the M27. The access road also serves three other houses: Winton Views, Lynwood and Foxhayes. This part of the RASC is characterised by similar winding private access roads. The site and its surroundings contain many mature trees and shrubs.
8. Indalo is a bungalow erected in the 1980s. The access road slopes steeply downwards from Winton Views and Lynwood and the bungalow is thus at a considerably lower ground level and below the adjacent raised embankment of the M27 just to the north. Permission was granted in 2015 for the conversion of Indalo into two 3-bedroom dwellings and this permission has been implemented.
9. LP Policy E4 states: *Development within residential areas of special character in Andover, Chilworth and Romsey on maps 1, 2 and 3 will be permitted provided that: a) the resulting sizes of both the proposed and remainder of the original plot, when sub-divided, are not significantly smaller than those in the immediate vicinity; and b) the development's size, scale, layout, type, siting and detailed design are compatible with the character of that RASC.*
10. This Policy is quite specific and it is clear that development proposals within RASCs must meet both strands a) and b). I note that the LP was adopted only a year ago and that this Policy is compliant with the National Planning Policy Framework. I also note that the Council will seek to control the sub-division of plots and to maintain a sense of spaciousness in RASCs².
11. Indalo has a plot size of approximately 0.2 hectares (ha). But it has already been subdivided into two units known as Indalo Mews. The appeal proposal would be on a plot of 1,084m² (just over 1 ha) but if it went ahead the two dwellings at Indalo Mews would each have only the equivalent of approximately 0.05 ha per plot.
12. Given the wording of the Policy it is apposite to compare these proposed plot sizes with those of properties in the immediate vicinity. These are set out in the Council's Appendix i) b to its Statement of Case³, the report into the proposal for one of the new dwellings in the rear garden of the nearby property known as Milepost. The plot sizes of Aloha and Winton Views are 0.12 ha and that of Milepost itself 0.13 ha. The two new dwellings at Milepost would be 0.27 and 0.21 ha respectively, and I noticed that these dwellings are currently under construction. All these plots are themselves smaller than many of the other surrounding plots in the vicinity.

¹ Topic Paper – Policy E4: Residential Areas of Special Character (Appendix iv to Council's Statement of Case)

² Ibid, paragraph 2.3

³ Paragraph 8.15

13. I acknowledge that the size of the appeal plot is not significantly smaller than the plot sizes of Aloha or Winton Views. But that is because it leaves Indalo Mews, two dwellings, with only 0.05 ha approximately each, and this would be significantly smaller than the plots in the immediate vicinity. In essence I consider that Indalo's plot has already been subdivided to its maximum extent and further subdivision in the manner proposed would be contrary to strand a) of LP Policy E4.
14. I have taken into account the matters raised by the appellant in relation to the recent nearby Heather Hill appeal decision⁴, particularly the issue concerning plot size. But, for the above reason, I consider that the plot size of the existing property (now two dwellings) would be rendered significantly smaller as a result of the proposal, which I must consider in relation to Policy E4.
15. The site cannot be seen until the viewer is right next to it and the retained trees and topography of the land would mean that it would hardly be seen by the occupiers of the nearest houses at Winton Views and Lynwood. Views of the proposed dwelling from the adjacent raised M27 may be possible in winter but these would only be of its blank rear elevation and such glimpsed views would not seriously compromise the area's character or appearance.
16. However, one of the stated aims of Policy E4 is to maintain a sense of spaciousness in RASCs. The proposed dwelling itself would be about 18m from Indalo. But the proposal also involves the demolition of the existing double garage and construction of an embanked parking area closer to Indalo's western elevation. Whilst I acknowledge that the three parking spaces closest to Indalo would be for the use of its own occupiers this parking area would erode the sense of spaciousness between the existing and proposed properties, particularly since the parking area is at a higher level.
17. For this reason the proposed development is incompatible with the character of the Chilworth RASC and particularly with the existing character of Indalo and the properties around it. It would therefore also fail to comply with strand b) of LP Policy E4.

Living Conditions

18. As set out above, the new dwelling would be about 18m from the nearest habitable room windows in Indalo. Some incidental overlooking of those windows could arise from the ground floor window next to the new dwelling's main entrance door but I doubt this would be significantly adverse even if there were no parked cars in the way.
19. I agree with the appellant that overlooking from the larger first floor window in this elevation of the proposed dwelling would not be likely to occur because this window is designed to light the double height space of the entry hall and staircase; the alignment of the staircase would ensure that overlooking through this window would be very unlikely.
20. However, as indicated above, the proposal would include an embanked parking area closer to Indalo than its existing garage. I acknowledge that this part of the parking area would be for the use of the flats at Indalo itself. But the parking area would be shared between the two properties and when the occupants of Indalo Mews' cars were not parked there it would be possible and

⁴ APP/C1760/W/16/3152135

likely that cars belonging to occupiers of the new house would use this area for manoeuvring such that they would be likely to overlook the windows in Indalo's western elevation.

21. The proposal involves extending the parking area closer to Indalo's windows and this would exacerbate any such incidental overlooking. At its nearest point the new retaining wall supporting the parking area would be only 1.8m from these windows. Even allowing for the length of a car bonnet, overlooking from such a distance would be significantly prejudicial, especially because drivers would be looking down at the windows due to the slope of the land. I also consider that the proximity of the retaining wall and the cars parked at a higher level to these windows would be unduly oppressive, and this adds to the harm arising from overlooking.
22. For these reasons the living conditions of the occupier of the nearest flat in Indalo Mews would be significantly harmed by the development, in particular by unacceptable overlooking. LP Policy LHW4 states, amongst other things, that development will be permitted provided that it provides privacy for the occupants of neighbouring properties. For the above reasons the development would fail to comply with this Policy.

Conclusion

23. For the reasons given above I conclude that the appeal should be dismissed.

Nick Fagan

INSPECTOR