The Planning Inspectorate

Appeal Decision

Site visit made on 27 January 2017

by S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI

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

Decision date: 23rd February 2017

Appeal Ref: APP/Z3825/W/16/3162481
1 Gorse Bank Close, Storrington RH20 3AQ

- 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 & Mrs G McDonald against the decision of Horsham District Council.
- The application Ref DC/16/1423, dated 24 June 2016, was refused by notice dated 18 August 2016.
- The development proposed is erection of a single dwelling.

Decision

1. The appeal is allowed and planning permission is granted for the erection of a single dwelling at 1 Gorse Bank Close, Storrington RH20 3AQ, in accordance with the application Ref: DC/16/1423, dated 24 June 2016, subject to the conditions set out in the schedule attached to this decision.

Main Issue

2. The Council's decision notice gave a single reason for refusal relating to the character and appearance of the area. However, I have also had regard to the concerns raised by neighbours, particularly the occupants of No 2. I therefore consider the main issues in the appeal to be the effects of the proposed development on the:

   a) character and appearance of the area;

   b) living conditions of adjoining occupiers in relation to light, privacy and noise and disturbance.

Reasons

Character and appearance

3. The appeal site is situated on the western side of Gorse Bank Close, a residential cul-de-sac within the settlement boundary of Storrington and Sullington and the Heath Common Character Area. Heath Common is characterised by low density development of detached bungalows and chalet bungalows. The dwellings occupy generously proportioned plots, dominated by tall trees and mature vegetation. The area therefore has a spacious and verdant appearance with the buildings being less prominent than the woodland setting.

4. The plots vary in shape and size, as do the dwellings. Some plots within Gorse Bank Close have recently been sub-divided and permission has been granted

for infill development. At the time of my site visit a chalet bungalow was under construction adjacent to No 4[1] and there is an extant permission for a bungalow on land that was previously part of No 7's garden[2].

5. The appeal site is the side garden of No 1 and contains a group of protected Scots Pines. Mature vegetation in the garden of No 2 provides screening along the northern boundary, which is also marked by a post and rail fence. The roadside boundary is currently open. A proposal for a two-storey dwelling was dismissed on appeal in 2015[3]. The Inspector rejected that scheme due to its size, scale and siting. In particular he considered its proximity to No 1 would fail to adequately respect the spacious pattern of development in the vicinity.

6. The proposal before me has sought to address the previous Inspector's concerns. It would be a chalet style dwelling with a low eaves height to reflect the design of other dwellings in Gorse Bank Close. It is proposed that the existing single-storey side projection at No 1would be removed thus increasing the gap between the existing and proposed dwellings. The proposal would be positioned further back on the site than the previous scheme. The garage which was previously proposed immediately adjacent to the boundary with No 2 has been removed. The building would therefore be sufficiently separated from the side boundaries to avoid the proposal appearing cramped.

7. A new driveway from Gorse Bank Close would be provided and would reduce the amount of vegetation on the site. However, other vegetation and the protected trees would be retained enabling the house to be adequately screened from the street. Whilst the plot is smaller than others in the street, it does not necessarily follow that it is of an insufficient size to accommodate a dwelling. The plot would appear to be comparable in size with that on which the dwelling adjacent to No 4 is under construction. The appeal proposal would be less prominent in the street scene as it would be set further back from the frontage than the scheme at No 4. Taking all these factors into account I am satisfied that the scheme would not detract from the prevailing character of the area, provided that the site is sensitively landscaped and the trees are adequately protected. These matters could be secured by the imposition of appropriate conditions, a matter to which I will return later.

8. I therefore conclude that the proposal would not be harmful to the character and appearance of the area. In this respect it would comply with the requirements of Policies 32 and 33 of the Horsham District Planning Framework (HDPF), which requires new development to compliment locally distinctive character and relate sympathetically to the surrounding built environment, whilst making efficient use of land.

Living conditions

9. The adjacent dwelling to the north of the appeal site, No 2, is a good-sized chalet bungalow on a plot which is considerably wider at its rear than at its street frontage. On my site visit I saw that there is a terrace across the full width of the dwelling at the rear. Most of the principle rooms look out on this terrace and the garden which is enclosed by mature vegetation. There is a small conservatory attached to the southern side of the dwelling. Its windows

[1] DC/16/1009 and DC/15/1224
[2] DC/15/1023 and DC/14/2389
[3] APP/Z3825/W/15/3033473

look out on the front and rear gardens as well as towards the shared boundary with No 1. However, views into the appeal site are restricted by the extensive vegetation along this side of No 2's garden.

10. The front elevation of the proposed dwelling would be sited to the rear of this conservatory and over 4m from the boundary. As No 2 and its conservatory are also set well away from the shared boundary I am satisfied that the proposal would not give rise to any unacceptable loss of light, overshadowing or sense of enclosure for the occupants of this adjacent dwelling. Whilst there is a first floor window in No 2 that looks towards the appeal site, the proposal would be sufficiently separated to prevent any significant loss of outlook from this bedroom.

11. Any potential loss of privacy along the shared boundary could be addressed by a condition securing an appropriate boundary treatment. The only window in the northern elevation of the proposed dwelling would serve a bathroom. A condition requiring obscure glazing of this window would prevent any potentially harmful overlooking of No 2 or its garden.

12. The driveway of the proposed dwelling would be immediately adjacent to the shared boundary. However, the number of traffic movements generated by a single dwelling would not give rise to levels of noise, disturbance or pollution that could justify the refusal of planning permission. Temporary noise and disturbance, arising during the construction period, although regrettable, is an insufficient reason to reject a proposal which, when built, would not be harmful to the living conditions of neighbours. However, it would be appropriate to mitigate disturbance during the construction period through the imposition of an appropriate condition. This is a matter to which I will return later.

13. The occupants of No 2 have a young disabled child who I understand is partially sighted and requires daily medication for breathing difficulties. They therefore want to provide him with the best possible living environment. However, for the reasons set out above, I am satisfied that the proposal would not be materially harmful to their living conditions. It therefore follows that there would not be an infringement of their rights, or those of their son, under Article 8 of the Human Rights Act.

14. The occupiers of Hazeldene Lodge raised concerns about the potential loss of privacy arising from first floor windows in the proposed dwelling overlooking their house and garden. However, the separation distance between the existing and proposed dwelling and the vegetation and trees along the rear boundary of the appeal site, indicate that this would not result in unacceptable loss of amenity. In my view conditions requiring an Arboricultural Method Statement and a landscaping scheme, to ensure that trees are retained as shown on the submitted plans, would be sufficient to address this matter.

15. I therefore conclude that the proposal would not be harmful to the living conditions of adjoining occupiers as a result of loss of light, privacy or unacceptable noise and disturbance. In this respect the proposal would comply with Policy 33 of the HDPF, which requires development to be designed to avoid unacceptable harm to the amenity of occupiers of nearby property.

Conditions

16. I will therefore move on to consider conditions in addition to the standard time limit. Some have been suggested by the Council and others were recommended by the highway authority in the event that the appeal was allowed. I have also had regard to aspects of the scheme which have been shown on the submitted plans or within the accompanying documentation, but require conditions to secure their implementation. In addition I have had regard to conditions suggested by third parties. I have considered all potential conditions in the light of the tests set out in paragraph 206 of the National Planning Policy Framework. I have imposed them where I consider them to be necessary and reasonable, following consultation with the parties regarding landscaping and permitted development rights. Where necessary I have incorporated amendments for the sake of clarity and precision.

17. A condition specifying the plans is required in the interests of certainty. In order to protect the character and appearance of the area, it is essential that the single storey side extension on the existing dwelling is removed. Drawing no 16.003 01 Rev A shows that this is an intended part of the scheme, although the Council has not formally requested a condition to secure its removal. Although the existing extension lies outside the boundary of the appeal site, it is within the appellants' ownership and therefore it is appropriate to impose a Grampian style condition. This will ensure it is removed before other construction work begins.

18. A materials condition is needed in the interests of the appearance of the development. A condition requiring the submission of an Arboricultural Method Statement is essential to protect trees that are the subject of a Tree Preservation Order and others which it is intended should be retained along the western boundary of the site. In addition, I have consulted on the need for a landscaping condition. The main parties have accepted that it is necessary in order to protect the character and appearance of the area. The neighbours at No 2 have also commented that it is necessary to protect their living conditions, particularly in relation to the boundary treatments. Whilst I note that the Council would be willing for these details to be agreed and implemented prior to occupation of the dwelling it seems to me that some of the measures, particularly boundary treatments, may require earlier implementation. I have therefore imposed a pre-commencement condition to provide an opportunity for agreement of these details and an implementation programme before the start of construction.

19. In order to reduce the risk of flooding it is reasonable to impose a condition requiring implementation of a surface water drainage scheme. Conditions preventing burning of materials on site and restricting working hours during the construction period are necessary to protect the living conditions of adjoining occupiers. I have noted the neighbour's request to restrict working hours to between 09.30 and 16.00 hours during the week and none at the weekends. However, I consider that would be onerous and overly restrictive. Nevertheless, I have included restrictions on working hours on Saturdays and prevented work taking place on Sundays and public holidays.

20. A condition securing obscure glazing in the first floor window on the northern elevation of the dwelling is needed to protect the privacy of the occupiers of No 2.

21. Conditions to secure provision of the vehicular access prior to commencement of the development and the provision of parking and turning areas for vehicles prior to occupation are required in the interests of highway safety. Provision of secure storage for bicycles is justified to encourage the use of sustainable modes of transport. Similarly, suitable facilities for the storage of refuse and recyclable materials are required in the interests of the satisfactory functioning of the development.

22. The 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. However, in order to protect the character and appearance of the area and the living conditions of neighbours, I am satisfied that removal of permitted development rights in relation to the means of enclosure in front of the proposed dwelling, insertion of additional windows and other extensions, roof alterations and erection of ancillary buildings is justified in this case. However, I do not consider it necessary to remove permitted development rights in relation to porches (Class D), chimneys and flues (Class G), or microwave antenna (Class H). I have imposed conditions accordingly.

Conclusions

23. The government is seeking to significantly boost the supply of housing and requires applications for housing development to be considered in the context of the presumption in favour of sustainable development. The appeal site is within the built-up area of Storrington and Sullington, a settlement with a good range of services and facilities, strong community networks and reasonable transport links. There is therefore no objection in principle to a residential development on the site, provided it is appropriate to its context.

24. I have found that the proposal would not be harmful to the character and appearance of the area. In considering the representations made by third parties I am satisfied that there would be no material harm to the living conditions of adjoining occupiers. Other matters which have been raised the main and third parties can be addressed by the imposition of appropriate conditions.

25. For these reasons, I conclude that the proposal is acceptable and that the appeal should be allowed, subject to conditions.

Sheila Holden

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin no later than three years from the date of this decision.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos: 16.003 01 Rev A, 16.003 02, 16.003 03 Rev A, 16.003 04 and 16.003 05.

3. No development shall commence until details of a scheme to remove the single storey side extension on No 1Gorse Bank Close, shown on approved drawing 16.003 01 Rev A, have been submitted to and approved in writing by the local planning authority. The removal of this extension shall be implemented in accordance with the approved details.

4. No development above slab level shall take place until a schedule of materials and samples of such materials and finishes and colours to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

5. No development shall take place, including demolition pursuant to the permission granted, ground clearance or bringing equipment, machinery or materials onto the site, until a detailed Arboricultural Method Statement (AMS) outlining measures to protect trees to be retained on the site and within the land edged blue on approved Drawing No 16.003 01 Rev A, has been submitted to and approved in writing by the local planning authority. The AMS shall provide for the long term protection the trees that are identified for retention. The development shall be implemented in accordance with the agreed details.

6. No development shall take place until full details of all hard and soft landscaping works, including boundary treatments, have been be submitted to and approved in writing by the local planning authority. All such works as may be approved shall then be fully implemented in accordance with a programme that has been submitted to and approved in writing by the local planning authority. Any plants or species which, within a period of five years from the time of planting, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise agreed in writing by the local planning authority.

7. No development shall take place until a scheme for the provision of surface water drainage has been submitted to and approved in writing by the local planning authority. The drainage works shall be implemented in accordance with the approved details prior to first occupation of the dwelling hereby permitted.

8. No development shall take place until the vehicular access to serve the development has been constructed in accordance with details that have first been submitted to and approved in writing by the local planning authority.

9. No works associated with the implementation of the dwelling hereby permitted shall be carried out other than between 08.00 hours and 18.00 hours on Mondays to Fridays inclusive, between 08.00 hours and 13.00 hours on Saturdays, and at no time on Sundays, Bank and Public Holidays, unless previously agreed in writing by the local planning authority.

10. No burning of materials in association with the implementation of the dwelling hereby permitted shall take place on the site.

11. Prior to first occupation of the dwelling hereby permitted the parking and turning areas shown on approved plan, Drawing No 16.003 05, shall have been provided. These areas shall thereafter be retained at all times for the parking and turning of vehicles.

12. Prior to first occupation of the dwelling hereby permitted facilities for the covered and secure parking of bicycles shall have been provided in accordance with details that have previously been submitted to and approved in writing by the local planning authority. The cycle parking facilities shall thereafter be retained as approved for that purpose.

13. Prior to first occupation of the dwelling hereby permitted facilities for the storage of refuse and recyclable materials shall have been provided in accordance with details that have previously been submitted to and approved in writing by the local planning authority. The refuse/recycling facilities shall thereafter be retained as approved for that purpose.

14. The dwelling hereby permitted shall not be occupied until the first floor window on the northern elevation has been fitted with obscure glazing and no part of that window that is less than 1.7m above the floor of that room shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing before the window is installed and once installed shall be retained as such thereafter.

15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the curtilage of the dwelling hereby permitted, forward of any wall of that dwelling which fronts onto a road.

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no window or dormer window other than that expressly authorised by this permission shall be constructed in the northern elevation of the dwelling hereby permitted.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development falling within Classes A, B, C, E and F shall be erected, constructed or placed within the curtilage of the development hereby permitted.

End of Schedule of Conditions