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## Appeal Decisions

Site visit made on 20 February 2017

**by H Butcher BSc (Hons) MSc MRTPI**

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

**Decision date: 21 March 2017**

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### **Appeal A Ref: APP/N1730/W/16/3162889**

#### **Land rear of Tamar and Common View, Linden Avenue, Odiham, RG29 1AW**

- 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 M Wildsmith Stax Group c/o Bell Cornwall Partnership LLP against the decision of Hart District Council.
  - The application Ref 16/02317/FUL, dated 1 September 2016, was refused by notice dated 26 October 2016.
  - The development proposed is the erection of two detached dwellings, garaging and associated parking and landscaping.
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### **Appeal B Ref: APP/N1730/W/16/3161062**

#### **Land rear of Tamar and Common View, Linden Avenue, Odiham, RG29 1AW**

- 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 M Wildsmith Stax Group c/o Bell Cornwall Partnership LLP against the decision of Hart District Council.
  - The application Ref 16/01008/FUL, dated 20 April 2016, was refused by notice dated 27 September 2016.
  - The development proposed is the erection of one three bedroom bungalow and a pair of three bedroom semi-detached dwellings, and associated parking and landscaping.
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### **Decision**

1. Appeal A is dismissed.
2. Appeal B is allowed and planning permission is granted for the construction of one three bedroom bungalow and a pair of three bedroom semi-detached dwellings, and associated parking and landscaping, at land rear of Tamar and Common View, Linden Avenue, Odiham, RG29 1AW, in accordance with the terms of the application, Ref 16/01008/FUL, dated 20 April 2016, subject to the conditions in the schedule at the end of this decision.

### **Main Issues**

3. As set out above, there are two appeals. These concern two residential developments which differ only in the number of dwellings proposed and their detailed designs and layouts. Although I have considered each proposal on its individual merits, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
  4. The main issues in both Appeal A and Appeal B are: The effect of the development on the character and appearance of the surrounding area, and the
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living conditions of occupiers of neighbouring properties, having particular regard to matters of outlook and privacy.

## **Reasons**

### *Character and appearance*

5. The appeal site is an area of land located to the rear of residential properties Tamar and Common View, Linden Avenue. The proposals before me are for a residential development to be accessed through a housing development to the east which is currently under construction. The access was granted planning permission under application 16/02363/FUL.
6. The surrounding area to the appeal site is a mix of two storey and single story properties, in developments of varying layouts. In Linden Avenue the properties are generally well spaced with long rear gardens. To the north is Heronswood which is a more recent development where the dwellings are more tightly arranged than in Linden Avenue. The new housing estate to the east is also a more tightly arranged development than Linden Avenue.
7. The Council raise concern that the proposals would appear cramped in relation to development in Linden Avenue. However, they would not be viewed in the context of Linden Avenue being located to the rear of Tamar and Common View and accessed through the adjacent housing development. The layout of both developments would broadly fit with that of the new housing estate through which they would be accessed, and in the context of which they would be viewed. I am therefore satisfied that the general layout of both proposals would broadly respect the character and appearance of the area.
8. Notwithstanding the above, in Appeal A, Plot 2 would be a substantial two storey dwelling, and in combination with the double garage it would almost completely fill its plot. This in conjunction with the narrow and tapering shape of the site here would give this element of Appeal A a cramped appearance which would be harmful to the character and appearance of the development. In Appeal B, however, the bungalow proposed in this part of the site would have a narrower form with greater gaps to the side and as such would constitute a less cramped and therefore more acceptable development.
9. I note the Council's comments about the loss of existing vegetation across the site but noting that the trees are not of any particular arboricultural value and that the hedgerows are not protected, with a suitable landscaping scheme, I find no compelling reason to keep this site open.

### *Living conditions*

10. Tamar has a very short rear garden as a result of an earlier plot division to create the appeal site; some 5-6m at its shallowest point. In Appeal A, Plot 2 would comprise a detached two storey dwelling sited, more or less, directly to the rear of Tamar. The distance between the two would be around 12m at its closest point based on the plan before me. This is not, in my opinion, a sufficient side to rear separation distance for two, two storey properties, and, as a result, the main rear outlook from Tamar, and its rear garden, would be seriously impeded, despite Tamar occupying a slightly elevated position in relation to the appeal site. Furthermore, a double garage is proposed to serve Plot 2 and this would sit right on part of the rear boundary of Tamar, which would further enclose and obstruct the outlook for its occupants.

11. I note the appellant's comments that the adjacent housing development displays 13m side to rear separation distances and rear gardens with a depth of 8m. However, neither of these distances match that which is proposed in respect of Tamar. This does not, therefore, justify Appeal A given the harm I have found.
12. In Appeal B a bungalow is proposed to the rear of Common View and Tamar (Plot 3). It would be single storey with first floor accommodation in the roof space. The roof would be fully hipped and it would be set further back in the plot so it would not sit directly behind either Tamar or Common View. It would also be set in from the rear boundary of these neighbouring properties. Consequently the rear view from either Common View or Tamar would not be dominated by Plot 3 in Appeal B to the extent that it would cause harm to outlook.
13. The Council raised concern in respect of the living conditions of occupants of 3 and 4 Heronswood. In Appeal A Nos 3 and 4 would simply back onto the rear garden created by Plot 2. In terms of Appeal B the same is true again for No 3. In respect of No 4, Plot 3 (the chalet bungalow) would maintain a good side to rear separation distance of some 15m from No 4. As such I find no harm to the living conditions of occupiers of Nos 3 and 4 in either appeal.
14. In terms of any overlooking to the rear garden of 5 Heronswood from Plot 1 in Appeal A and Plots 1 and 2 in Appeal B, the degree of separation and the planting along the northern boundary of the site would mitigate any concerns in this respect. Overlooking to Lyndhurst, Linden Avenue would also not be harmful given existing planting along the southern boundary which could be enhanced.
15. Although it is not part of the Council's reason for refusal, the officer's reports for both Appeal A and Appeal B raise overlooking of the gardens of the new properties from Tamar. Although it occupies an elevated position, Tamar is angled so that rear views from here would be of either the side of Plot 2 in Appeal A and/or across the entrance to the development in both appeals. Only oblique views of the rear gardens of the proposed properties would be possible. I therefore find no harmful overlooking to the future occupiers of the proposed development.

#### *Other matters*

16. On the evidence before me, and from what I observed on site, I find no reason to conclude that the proposals would result in any harmful loss of light to neighbouring properties and I note the Council raised no specific objection in this respect. Aside from my concerns set out above in respect of Tamar and Plot 2 in Appeal A, I find no other material harm in respect of the outlook of neighbouring properties, or the proposed dwellings. Nor do I find any material loss of privacy.
17. Given the variety of surrounding development I find no reason to conclude that two storey dwellings on the site would, in principle, be harmful. Noise and pollution from lighting or car use within the development, and any other noise associated with the domestic occupation of the site, would not be harmful given surrounding residential development.

18. I note the development would require the removal of a septic tank used by Tamar and Common View and their connection to mains drainage. However, this is a matter between the parties involved and would not affect the outcome of this appeal.
19. The plans before me show a total of nine parking spaces for the development in Appeal B. I note a maximum of 10 spaces is required by the Council's Highway Officer. However, there is nothing before me to suggest that nine spaces; three per dwelling, is insufficient to serve the development.
20. I note a Neighbourhood Plan for Odiham is in the process of being written. However, it is not at a stage where it would be given any weight in the consideration of this appeal. Subject to a suitable condition I find no harm in respect of ecology.

### *Conclusion*

21. Based on my findings above Appeal A would cause harm to the character and appearance of the surrounding area. Appeal A would also unacceptably harm the living conditions of occupants of Tamar by virtue of a loss of outlook. For these reasons Appeal A would conflict with policies GEN1, GEN4 and URB12 of the Hart District Local Plan. These policies, amongst other things, require new development to be sympathetic in scale, design, massing, height and layout both in itself and in relation to adjoining buildings, and to avoid any material loss of amenity to existing adjoining residential uses. Similarly the National Planning Policy Framework seeks a high quality of design and a good standard of amenity for all existing occupants of land and buildings.
22. In respect of Appeal B, however, I find no such conflict. Consequently, having had regard to all matters raised, Appeal A is dismissed and Appeal B is allowed.

### *Conditions*

23. In terms of Appeal B I have attached the standard time limit condition and included a plans condition as this provides certainty. To ensure a satisfactory appearance I have also included a condition regarding the materials to be used in the construction of the development and conditions requiring the submission of hard and soft landscaping details. I note the recommendations of the Council's tree officer and as such have also included a condition in respect of the protection of retained trees in the interests of the appearance of the site and to maintain privacy for occupiers of neighbouring properties.
24. I have included a condition requiring a construction method statement and a condition restricting delivery and construction working hours in order to protect the living conditions of neighbours. I have also included a condition to ensure the measures set out in the submitted ecological appraisal are carried out in line with the Council's Ecologist's recommendations.
25. There is limited information before me in respect of drainage of the site and this is a concern raised by various third parties. I have therefore included a condition requiring the submission and approval of a drainage strategy as suggested by Thames Water. There is nothing before me to lead me to conclude this could not be done within the time limit imposed by the permission. Finally, I have included a condition restricting the use of the proposed parking spaces to occupants of the dwellings and their visitors only to ensure adequate parking is available at all times.

26. I have limited the number of pre-commencement clauses to those cases where this is essential for the condition to achieve its purpose.

*Hayley Butcher*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not 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: 150911/SL-01 Rev F, 150911/HT-EL-3BB, 150911/HT-FP-3B, 150911/HT-FP-3BB, 150911/LP-02, 150911/SS-01 Rev F, 150911/SS-02 Rev C, 150911/LP-03, 150911/LP-01 Rev A, 150911/CP1-EP, 150911/HT-EL-3B Rev A .
- 3) Before any above ground development hereby permitted is commenced details and samples or all external surfaces of the development hereby permitted shall 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) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority.

Hard details shall include, as appropriate, proposed finished levels and/or contours, means of enclosure of unbuilt open areas, car parking layouts, other vehicles and pedestrian access and circulation areas, hard surfacing material and artefacts and structures (e.g. furniture, refuse or other storage units, signage, lighting , external services, manholes etc.)

Soft landscape details shall include planting plans, written specifications (including cultivation and other operation associated with plant establishment), schedules of plants, noting species, planting sizes and proposed densities where appropriate.

The submitted details shall further include a proposed timetable for planting and laying out of hard surfaces and roads.
- 5) The hard and soft landscaping works shall be carried out in accordance with the approved details, including the approved timetable, and the Council shall be notified in writing of the completion of the scheme or any agreed phase of such scheme. Any trees or plants which, within a period of five years after approved completion are removed, die or become seriously damaged or defective shall be replaced as soon as is reasonably practicable with others of similar species, size and number unless the Council gives it written consent to any variation.
- 6) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard

BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

[In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.]

- 7) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
  - ii) loading and unloading of plant and materials;
  - iii) storage of plant and materials used in constructing the development;
  - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - v) wheel washing facilities;
  - vi) measures to control the emission of dust and dirt during construction;
  - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 8) No development or demolition work or delivery of materials shall take place at the site between 07:30 hours 18:00 hours weekdays or 08:00 to 13:00 hours Saturdays. No development or demolition work or deliveries of materials shall take place on Sundays or Public Holidays.
- 9) The development shall be implemented in accordance with the measures outlined in the Ecological Appraisal conducted by Hankinson Duckett Associates dated March 2016.
- 10) Development shall not commence until a drainage strategy detailing any on and/or off site drainage works has been submitted to and approved in writing by the local planning authority in consultation with the sewerage undertaker. The development shall be carried out in accordance with the approved drainage strategy.
- 11) The car parking spaces to be provided shall be kept available at all times for the parking of motor vehicles by the occupants of the dwellings and their visitors and for no other purpose.