
Appeal Decision

Site visit made on 20 March 2017

by Neil Pope BA (Hons) MRTPI

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

Decision date: 27th March 2017

Appeal Ref: APP/L1765/W/16/3163131

Former Gas Works, Garfield Road, Bishop's Waltham, Hants, SO32 1AT.

- 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 Lynda Middleton and Mr Martin Middleton against the decision of Winchester City Council (the LPA).
 - The application Ref.16/00287/FUL, dated 9/2/16, was refused by notice dated 27/6/16.
 - The development proposed is the erection of one 1 bed flat with garages beneath, two 2 bed houses, one 3 bed house with associated parking.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The address above is taken from the LPA's decision notice and the appeal form.

Main Issues

3. The two main issues are: firstly, the effect of the proposed development upon the character and appearance of the area and; secondly whether the proposal would provide adequate living conditions for occupiers of the proposed dwellings having particular regard to noise and overlooking.

Reasons

Planning Policy

4. The development plan includes the Winchester District Local Plan Part 1 – Joint Core Strategy (CS) adopted in 2013 and the saved policies of the Winchester District Local Plan Review (LP) adopted in 2006.
 5. The most relevant development plan policies to the determination of this appeal are: CS policies CP2 (housing priorities and housing mix); CP13 (design); CP 14 (the effective use of land); and LP policies DP3 (design); DP4 (landscape and the built environment); DP5 (amenity space); and DP12 (pollution sensitive development).
 6. The Local Plan Part 2 (LP2) has, subject to recommended modifications, recently been found sound by the Inspector appointed to examine that Plan. Policy DM1 of this Plan permits, in principle, new housing within settlement boundaries. I understand that if adopted, LP2 policies DM15 (design) and DM16 (site development principles) would replace LP policy DP3 and LP2 policy DM19 (noise) would replace LP policy DP12. As LP2 has reached an advanced stage towards adoption these policies can be given considerable weight.
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7. I have also taken into account the provisions of the Bishop's Waltham Design Statement, which the LPA adopted as a Supplementary Planning Document (SPD) in 2016 and the High Quality Places SPD which the LPA adopted in 2015.

Character and Appearance

8. This 0.12ha site lies comprises a former gas works¹ within a mainly residential area of the town. The site is at the end of Garfield Road. This street includes a mix of detached, semi-detached and terraced dwellings, as well as a breakers yard² which adjoins the northern boundary of the site. Trees of various species and age are growing within a bank of land that runs around three sides of the site. The upper parts of some houses in Andrewes Close and Denewulf Close overlook the site from much higher ground to the west and south west.
9. The proposed two storey houses would comprise a terrace adjacent to the trees growing on the bank that runs along the northern boundary of the site. The proposed flat would be to the south and on the opposite side of the new access road. The proposal would add to the variety of building styles within the street and the concrete roof tiles and red/brown brick walls would match the finish of the existing dwellings. To limit the risk of noise disturbance from the adjoining breakers yard, the only openings in the rear (northern) elevation of the proposed terrace would be solid ground floor doors. There would also be no openings in the proposed side (eastern) elevation facing the street. A 3m high acoustic fence would be erected along the northern boundary and part of the eastern boundary of the site.
10. I concur with the LPA that the proposed design of the terrace would be 'inward looking' and the height and solid mass of the eastern elevation would comprise a rather oppressive and unattractive addition to the street scene of Garfield Road. This inappropriate response to the public realm would be compounded by the tall acoustic fence where it would face onto the street. Even if covered (over time) with ivy, this fence would comprise a prominent and incongruous element at the end of the road. The proposal would fail to make a positive contribution to the local environment. It would be at odds with national³ and local planning policies that are aimed at securing high quality design.
11. I note the findings of the appellant's Arboricultural Impact Assessment and Method Statement that was submitted in support of the application. Whilst individually, none of the trees growing within the site are rare or fine specimens, collectively they form a pleasing feature of the local area. They assist in softening the impact of the buildings and the breakers yard.
12. The loss of about half a dozen mainly Sycamore trees would not in itself significantly harm the quality of the local environment. However, I concur with the LPA's Tree Officer that given the height and location of the trees to be retained most, if not all, would be perceived as a nuisance⁴ by occupiers of the proposed dwellings. In time and notwithstanding any future management regime for the trees, this could result in pressure to fell the trees which would be difficult to resist. This would erode the quality of the local townscape.

¹ This former commercial site has been the subject of some decontamination works.

² This benefits from a certificate of lawful use, issued by Hampshire County Council in 2012, for the storage of scrap vehicles and metals, the sorting and compacting of metals, including the recovery of oil based fluids from scrap vehicles (ref. 11/01071/HCS). I note that site machinery can lawfully operate between the hours of 07:30-17:00 Monday to Friday and 08:00-13:00 on Saturdays.

³ The National Planning Policy Framework (the Framework).

⁴ A combination of leaf litter/debris falling onto the properties and shade caused by the canopies of the trees.

13. I conclude on the first main issue that the proposal would detract from the character and appearance of the area and would conflict with the provisions of CS policy CP13, LP policies DP3, DP4, LP2 policy DM15, the design provisions of the Framework and the aims and objectives of the above noted SPDs.

Living Conditions

14. I note the findings of the Environmental Noise Assessment that was submitted in support of the application. In addition to the above noted design features that are intended to reduce the impact of noise from the neighbouring breakers yard, the proposed dwellings would also include a noise insulation scheme (glazing and ventilation). I have also been informed that the Environment Agency has classified the breakers yard as a low environmental risk. I have noted above the operating times of this neighbouring business.
15. The proposed design features (including insulation) and acoustic fence would limit the effect of noise disturbance upon occupiers of the proposed dwellings. However, as I saw/heard during my visit, when bulky material is being loaded into an HGV within the breakers yard there is considerable noise disturbance in the immediate vicinity of the appeal site for a significant period of time.
16. I may have experienced a 'noise spike' and for much of the day this type of noise may not occur. Nevertheless, even with the proposed insulation and acoustic fence in place, in all likelihood, residents of the proposed dwellings trying to relax within their gardens or utilising their bedrooms and living areas with windows open⁵ would find such disturbance unacceptable. Circumstances could also change and noise/activity within the breakers yard could intensify.
17. Common sense alone indicates to me that it would be very unwise to provide such noise sensitive development immediately alongside a working breakers yard. It would put new residents at risk of unacceptable noise pollution and could result in an existing business, which contributes to the local economy, incurring expense in trying to ameliorate lawful business activity. There is no cogent evidence to demonstrate that the proposal would have any meaningful impact on reducing noise disturbance to existing residents.
18. Even with the proposed design features/acoustic fence, I concur with the LPA that given the close proximity of the working breakers yard the appeal site is unsuitable for residential development. The proposal would fail to provide a high standard of amenity for occupiers of the new dwellings and would conflict with the provisions of the Framework, LP policy DP12 and policy DM19 of LP2.
19. There would be potential overlooking of the south facing gardens of the proposed terrace of houses from some first floor windows in a few houses in Andrewes Close and Denewulf Close. However, these existing dwellings are set back from the proposed garden spaces and for much of the year, when the trees growing within the site are in leaf, any views of the gardens would be heavily filtered. The extent of overlooking of these garden spaces would not be so great as to result in an inadequate level of privacy for new residents. There would be no conflict with LP policy DP5 or LP2 policy DM16(vi).

⁵ I note from the consultation response of the Environmental Health Officer that the author of the noise assessment has advised that the proposed noise attenuation was calculated on the assumption of windows being kept closed.

20. I conclude on the second main issue that the proposal would fail to provide adequate living conditions (noise disturbance) for occupiers of the proposed dwellings.

Other Matters

21. The appeal site lies within the settlement boundary for Bishop's Waltham. The proposal would add to the existing mix of dwellings, increase the stock of housing, including the provision of more affordable 'starter homes' and would entail the re-use of previously developed land. Occupiers of the proposed dwellings would also have convenient access to local services and facilities. The proposal would accord with aspects of CS policies CP2 and CP14, LP2 policy DM1 and parts of the Framework. I also note the 2015 publication by the Department for Business, Innovation & Skills entitled 'Fixing the Foundations: Creating a More Prosperous Nation' which, amongst other things, encourages the re-use of previously developed land. These matters lend weight to the argument for granting permission.
22. The proposal would increase traffic along the local road network and could result in a very modest increase in on-street parking. However, there is no cogent evidence to demonstrate that this would result in congestion or pose a significant risk to users of the highway. There is also nothing of substance to support the fears of some interested parties that traffic generated by the development would result in harmful noise disturbance for existing residents.

Planning Balance / Overall Conclusion

23. I have found that the proposal would accord with some aspects of national and local planning policies but would conflict with others. In achieving sustainable development the Framework and the development plan require new housing to be of a high quality design and to include a good standard of amenity. In this instance, the harm that I have identified in respect of the main issues above justifies withholding permission. Moreover, the proposal conflicts with the provisions of the Framework and the development plan when each of these is read as a whole. I therefore conclude that the appeal should not succeed.

Neil Pope

Inspector