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## Appeal Decision

Site visit made on 23 May 2017

**by R J Marshall LLB DipTP MRTPI**

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

**Decision date: 12 June 2017**

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**Appeal Ref: APP/B1740/W/17/3170785**  
**30, Barton Drive, Barton-on-Sea, BH25 7JJ**

- 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 WCR Management Ltd. against the decision of New Forest District Council.
  - The application Ref 16/11488, dated 27 October 2016, was refused by notice dated 20 December 2016.
  - The development proposed is erect 1 no 3 bed chalet bungalow with parking.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this appeal are: **first**, the effect of the proposed development on the character and appearance of the surrounding area; and **second**, whether adequate living conditions would be provided for occupants of the proposed dwelling.

### Reasons

#### Character and appearance

3. The appeal site lies within an area of predominantly bungalow development. Most of the dwellings in this area front directly onto the highway along lengths of fairly straight roads. The proposed chalet bungalow would be in the rear garden of No. 30 Barton Drive. Because of the irregular shape of the plot the proposed development would not comprise tandem development of one dwelling directly to the rear of another. However, being in a back garden area it would clearly be backland development. As such, and even though on a reasonably sized site, it would be out of keeping with the prevailing character and appearance of the area. It would be clearly seen as such in views down the proposed driveway and from neighbouring properties.
4. A short distance from the appeal site a bungalow has been erected between Nos. 24 and 26 Barton Drive. On a corner location this dwelling does not front directly onto the highway. However, its front elevation is quite clearly seen from the highway which makes this bungalow seem more closely related the road than would the proposed development located well back from the highway down a lengthy drive. Not far from the appeal site, but off Barton Court Avenue, there is a backland development of 6 houses. However, this road has

a distinctly different character from Barton Drive. It is a lengthy road of more varied housing compared to the more formal estate type development off Barton Drive. Given these differences the backland development off Barton Court Avenue offers no significant guide as to what would be acceptable on the appeal site.

5. Turing to other harms referred to by the Council I accept that no harm would now arise in relation to an oak and hawthorn tree on the eastern boundary of the site on adjoining land. For the amenity value of these trees has already been seriously harmed by recent severe lopping. There is no prospect now that these trees would impinge upon the rear garden space of the proposed development so as to result in a need for further lopping.
6. However, on the southern boundary of the site there is a line of oak trees that are seen from beyond the site and which add to the attractiveness of the area. Whilst it would be possible, with sufficient safeguards, to undertake the proposed development without damage to the roots of these trees am concerned about the impact on their branches. For these would overhang a small front garden area of the site and in part 2 car parking spaces. The branches are so low that they would need to be trimmed back. Moreover, even with this work undertaken it is likely that future occupiers would be still be concerned about the possibility of branches and more minor debris falling onto the parking area. This would be likely to lead to yet further requests for lopping to the detriment of their appearance. I accept that permission would be needed to undertake this work. However, in my experience such applications could be difficult to resist.
7. In 1991 permission was granted on appeal T/APP/B1740/A/90/174355/P7 for a chalet bungalow on the appeal site. However, that was when entirely different national and local planning policies were in force and before the Council had undertaken the detailed assessment of the character and appearance of the area in the New Milton Local Distinctiveness SPD approved in 2010. As things now stand it is quite appropriate to take a different view on the acceptability of development on the appeal site. I note that in the 1991 appeal it was found that the differences between the then proposed development and the bungalow between 24 and 26 Barton Drive were not particularly marked. However, in the earlier appeal the proposed dwelling was located far further forward on the plot than in the scheme before me. It would thus have appeared closer to highway thus reducing the difference between it and the bungalow between nos. 24 and 26.
8. The site on which the proposed dwelling would be erected is rather unkempt having already been split from the remainder of the site. However, any benefit in tidying the site up would be outweighed by the harm found.
9. It is concluded that the proposed development would be detrimental to the character and appearance of the surrounding area. There would be conflict with Policies CS2 and CS3 The Local Plan Part 1 (Core Strategy) (2009) which requires new development to respect the context and character of the area along with protecting important trees.

### ***Living conditions***

10. The Council's sole concern on this point is on the adequacy of acceptable garden space. Space at the rear would be rather limited. However, it is not

uncommon to find dwellings of the size proposed with similar sized rear garden spaces. No specific Policies or guidance has been referred to to lead me to view that what is proposed would be inadequate. Prior to the lopping of the 2 trees at the rear of the site the garden space would have been shadowed to an extent that would have provided an unacceptable garden environment. However, with the extensive lopping that has been undertaken that would no longer be the case.

11. It is concluded that the proposed development would provide acceptable living conditions for future occupants. As such it would comply with good planning practice.

### **Other matters**

12. In accordance with the Habitats Regulations 2010 an assessment has been carried out on the likely significant effects associated with the recreational impacts of residential development on the New Forest and Solent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation being secured. The appellant does not contest this.
13. The Council has provided a detailed explanation of the appropriate mechanism for securing a contribution towards habitat mitigation measures, which includes the account that needs to be taken of Regulation 123 of the Community Infrastructure Regulations 2010 as amended. From what I have read I am satisfied that such mitigation could, on the particular circumstances raised by this Council, be secured by means of a negatively worded planning condition. I note that this view has now been supported in a number of appeals including APP/B1740/W/16/3162691. I have found no reason to come to a different view. Thus had I been minded to allow this appeal I am satisfied that necessary mitigation could have been secured.
14. I am satisfied that the siting and orientation of the proposed chalet bungalow in relation to neighbouring development would be such as to cause no unacceptable loss of privacy.

### **Planning balance and conclusion**

15. I have found harm on the first issue but not on the second issue or the concerns raised by third parties on overlooking. However, it is harm on the first issue that I find decisive. Seen in the round the proposal would be contrary to the development plan when read as a whole.
16. The proposed development would clearly be of some economic and social benefit. However, that is outweighed by the environmental harm identified and thus seen in the round the proposal would not be sustainable development in the terms of the National Planning Policy Framework.
17. For the reasons given above it is concluded that the appeal should be dismissed.

*R J Marshall*

INSPECTOR