
Appeal Decision

Site visit made on 20 June 2017

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

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

Decision date: 10 July 2017

Appeal Ref: APP/J1725/W/17/3171853

2 Warwick Close, Lee-on-the-Solent PO13 9AZ

- 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 Michael Lunn against the decision of Gosport Borough Council.
 - The application Ref 16/00526/FULL, dated 1 July 2016, was refused by notice dated 21 December 2016.
 - The development proposed is a new single storey dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a new single storey dwelling at 2 Warwick Close, Lee-on-the-Solent PO13 9AZ in accordance with the terms of the application, Ref 16/00526/FULL, dated 1 July 2016, subject to the following conditions attached on schedule A.

Procedural Matter

2. The Council has commented that the Appellant has now made the requisite payment under the Gosport Bird Disturbance Protocol which would ensure that the likely significant effects on the Solent Special Protection Areas (SPAs) have been appropriately mitigated. The Council no longer wishes to defend its reason for refusal based on nature conservation but I will comment upon this later in my decision.

Application for costs

3. An application for costs was made by Mr Michael Lunn against Gosport Borough Council. This application will be the subject of a separate Decision.

Main Issues

4. The main issues are the effects of the proposal on (a) the character and appearance of the area, (b) the living conditions of the future residents of the new dwelling, having regard to the provision of private outdoor space, and (c) the safety of pedestrians, cyclists and vehicle users.

Reasons

Character and appearance

5. The appeal site comprises an area of land laid to grass with boundary fencing which lies between 2 Warwick Close and 1 Lancaster Close. To the rear of No
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- 1, there is an electricity substation which is accessed via a gate from the appeal site. The surrounding area is residential in character with both Warwick Close and Lancaster Close consisting of single storey bungalows, chalet bungalows and terraced housing.
6. The proposal would result in an individually modern designed bungalow which would be different to the generally homogenous design of the bungalows on Warwick Close to the west of the appeal site. It would also be different in design of the chalet bungalow at 1 Lancaster Close, and bungalows to the east of this. These bungalows are generally homogenous in design similar to the other bungalows to the east of the site. In this regard, the proposed bungalow would have cladding with a frontage gable along with an off-centre upper level window. However, the streetscene still provides variation in dwelling design and form, especially given two storey terraced dwellings are located further along Warwick Close and Lancaster Close. Furthermore, the new dwelling does not dominate the street or the character and appearance of the area by virtue of its largely single storey design and position behind the main building lines on Warwick Close and Lancaster Close.
 7. The resultant plot would be smaller than neighbouring plots especially Lancaster Close but there would still be a rear garden of approximately 8.5m and a plot width of approximately 15.3m. The rear garden depth would be similar to many properties along Warwick Close whilst the plot width would be similar to properties along both Warwick Close and Lancaster Close. The width of the plot would also enable space to be provided down the side of the plot for vehicle parking. One of the vehicle parking spaces would be slanted across part of the bungalow. Nevertheless the closeness of this space to the dwelling would not result in overly cramped development because only a small part of it would be affected by this.
 8. In conclusion, the proposal would not harm the character and appearance of the area for all these reasons. Accordingly, the proposal would comply with policies LP10 and LP24 of the Gosport Borough Local Plan (LP) 2015, which collectively and amongst other matters, requires development to be well-designed to respect the character of the distinct built environment, that development should be refused if it is poor design by failing to take opportunities available for improving the character and quality of the area and the way that it functions and that housing development should relate to the context of the area.

Living conditions

9. The proposal would result in a private outdoor space shorter than that sought under the Council's Design Guidance Supplementary Planning Document (SPD) 2014. However some judgement has to be applied here given the dwelling would be for a small one bedroom unit limiting the number of residents and therefore the need for private outdoor space. On this basis, the space would be sufficient to provide for the everyday needs of residents, such as a outside clothes drying area and a relaxation area.
10. Within the space, there would be a requirement to provide an access route to service the electrical substation to the rear of 1 Lancaster Close. However, it has not been demonstrated that this would significantly reduce the full usage of the rear private outdoor space. Presently, the occupiers of 2 Warwick Close

use the appeal plot and there is no delineated area within their garden for this purpose.

11. In conclusion, the development would not harm the living conditions of the future residents of the new dwelling, having regard to the provision of private outdoor space, for the reasons indicated. Accordingly, the proposal would comply with policies LP10 and LP24 of the LP, which collectively and amongst other matters, requires safe and high quality neighbourhoods and for housing to provide for current and future needs of the population.

Highway safety

12. The proposal would provide an access adjacent to a turning head in the road which would necessitate vehicles crossing a footway onto the carriageway of the turning head. There is also an access onto the turning head from 2 Warwick Close which additionally has another access point further along onto the highway.
13. Vehicles from the new dwelling would use the turning head to gain access but the frequency of such movements for one dwelling would not be significant. Such a low frequency of traffic movements would not result in demonstrable harm to the safety of other highway users, vehicle drivers, pedestrians, and cyclists in a residential road where traffic speeds would be low. From what I saw on my site visit, there would be good forward visibility for pedestrians and cyclists in the vicinity of the site which would make them aware of vehicles coming in and out of the new property.
14. The new plot would have to provide access to the electricity sub-station for utility company personnel which might necessitate the residents of the new dwelling parking their vehicles elsewhere. However, even if this was necessary, I have no reason to consider such an occurrence would be other than occasional. Third parties have raised concerns about the displacement of vehicle parking from the turning head. Notwithstanding the turning head's purpose is for manoeuvring and turning of vehicles, most of the bungalow /chalet properties have their own parking within their properties whilst the terraced housing has frontage designed roadside parking. Additionally, the Appellant has undertaken counts of available parking in the area which shows sufficient capacity for any displaced parking. Although this has been criticised, the counts provide better informed evidence on the vehicle parking situation in the area than the comments put to me because they are more detailed.
15. The highway authority has raised objections that the development fails to demonstrate how pedestrians would access the existing footway without walking into the carriageway. However, the submitted plan shows hard surfaced areas suitable for pedestrians adjacent to the footway. Based on my site visit, I can see no objection to this arrangement especially given the absence of any substantial detail setting out the nature of the objections.
16. In conclusion, the development would not harm the safety of pedestrians, cyclists and vehicle drivers for the reasons indicated. Accordingly, the proposal would comply with policies LP22 and LP23 of LP, which collectively and amongst other matters, requires that any new access would not

significantly prejudice the safety, function and capacity of the road network and that the layout of the development provides sufficient visibility for the safe and convenient use of roads, paths and parking places.

Other matters

17. There has been considerable dispute over the accessibility to the electricity sub-station from the new development. Although access difficulties have been detailed, the Appellant indicates that electricity company personnel have keys to gates on the appeal plot to access the station and that their visits are limited to one or two a year. I see no reason why this current situation cannot be maintained. In providing an access route on the plot, the Appellant has already acknowledged some provision needs to be made for sub-station access. Furthermore, it has also been indicated that sub-station access is possible from Cherque Farm residential area. As to any required stationing of electricity company vehicles on the site, there has been no evidence of this been required in the past. For all these reasons, this consideration would not be in itself sufficient to outweigh the acceptability of the proposal.
18. The dwelling would result in a loss of a green space but such spaces are not a feature within the surrounding area and thus its loss would not be detrimental to the character and appearance of the area. Although this site was to be part of the Cherque Farm residential area, no safeguarding policy or justification has been brought to my attention to prevent this development. There would be some construction disruption from building a dwelling but this would not outweigh the acceptability of the scheme by reason of the temporary nature of such works.
19. The proposal before me shown on the submitted plans would be for a single storey bungalow. Notwithstanding this, any subsequent first floor accommodation under permitted development would be of a limited extent given roof pitch angle. As such, there would be no significant impact on the character and appearance of the area, or neighbour living conditions having regard to privacy or outlook.
20. The Appellant has made a financial contribution accompanied by a legal agreement under Section 111 of the Local Government Act 1972 towards habitat mitigation within the Solent SPAs. The mitigation would assist in funding measures to prevent disturbance to wintering waders and wildfowl. These measures would consist of initiatives, involving rangers, to reduce disturbance by influencing the behaviour of visitors, including dog-walkers and a monitoring scheme to assess the effectiveness of measures. By reason of being solely related to the operation and maintenance of the SPAs, such measures would not conflict with the pooling requirements of section 123(3) of the Community Infrastructure Regulations (CIL) 2010 (as amended).
21. The contribution is necessary to make the development acceptable in planning terms, is directly related to the development and is fairly related to it in scale and kind. I am satisfied that the contribution would be used for its intended purpose by reason of the setting up of a Solent Recreation Mitigation Partnership and the Council's commitment set out in the implementation section of the Gosport Bird Mitigation Disturbance Protocol 2017. For all these reasons, the contribution would comply with the statutory tests of section 122

of the CIL regulations and consequently, I have taken it into account in my decision.

Conditions

22. Suggested conditions have been considered in light of advice contained in Planning Practice Guidance; for clarity and to ensure compliance with the Guidance, I have amended some of the Council's and highway authority's suggested wording.
23. A condition requiring that the development is carried out in accordance with the approved plans is necessary in the interests of certainty. In the interests of safeguarding the character and appearance of the area, a condition controlling external materials is necessary. In the interests of a properly planned development, conditions are necessary to ensure the provision of the on-site parking, refuse and storage facilities. In the interests of highway safety, conditions regarding surface water drainage, migratory material and access are necessary in accordance with the comments of the highway authority. In respect of access, this should be implemented prior to the first occupation of the dwelling.

Conclusion

24. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be allowed.

Jonathon Parsons

INSPECTOR

Schedule A of attached conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 3575/05 Rev B and 3575/06 Rev A.
3. No development shall take place until samples of the materials 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. Development shall be carried out in accordance with the approved details.
4. The dwelling hereby permitted, shall not be occupied until vehicle parking spaces has been laid out within the site in accordance with drawing no. 3575/05 Rev B. Thereafter these spaces shall not be used for any purpose other than the parking and turning of vehicles in connection with the approved development.
5. No development above slab level shall take place until a scheme for cycle storage facilities has been submitted to and approved in writing by the local planning authority. The approved cycle storage facilities shall be implemented prior to the first occupation of the permitted dwelling and shall thereafter be retained for their intended purposes.
6. The development hereby permitted shall not be occupied until the facilities for the storage of refuse and recyclable facilities shown on drawing no. 3575/05 Rev B have been provided. They shall thereafter be retained for their intended purposes.
7. The proposed hard surfaces shall not be made of migratory materials unless it is in accordance with a scheme approved beforehand by the local planning authority. Such a scheme would detail measures to stop any migratory materials overflowing onto Warwick Close.
8. No development above slab level shall take place until details of a scheme to prevent surface water from the site discharging onto the adjacent highway has been submitted to and approved in writing by the local planning authority. The development works shall be carried out in accordance with the approved details before any part of the development is occupied and shall thereafter be retained.
9. Prior to the first occupation of the dwelling hereby permitted, the vehicular access shown on drawing no. 3575/05 Rev B shall be implemented in its full entirety.