
Appeal Decisions

Site visit made on 3 July 2017

by Ken Barton BSc(Hons) DipArch DipArb RIBA FCI Arb

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

Decision date: 03 August 2017

Appeal A Ref: APP/L1765/W/17/3168977

Appeal B Ref: APP/L1765/Y/17/3168987

Land north of Kingfisher House, Mill Lane, Wickham, Hants PO17 5HZ

- Appeal A is made under section 78 of the *Town and Country Planning Act 1990* against a refusal to grant planning permission.
 - Appeal B is made under section 20 of the *Planning (Listed Buildings and Conservation Areas) Act 1990* against a refusal to grant listed building consent.
 - The appeals are made by Mr and Mrs Anthony Taylor against the decisions of Winchester City Council.
 - The applications, Refs 16/00899/FUL and 16/01375/LIS, dated 21 April 2016 were refused by notices dated 31 August 2016.
 - The development and works proposed are "a detached dwelling utilising existing vehicular access onto Mill Lane with new pedestrian access in boundary wall. Proposed additional amenity area for Kingfisher House".
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Decision

1. The appeals are allowed and planning permission and listed building consent are granted for 'a detached dwelling utilising existing vehicular access onto Mill Lane with new pedestrian access in boundary wall. Proposed additional amenity area for Kingfisher House' on land north of Kingfisher House, Mill Lane, Wickham, Hants PO17 5HZ in accordance with the terms of the applications, Refs 16/00899/FUL and 16/01375/LIS, both dated 21 April 2016, subject to the conditions set out in the attached Schedule.

Preliminary Matter

2. The Winchester District Local Plan Part 2 has been adopted since the Council issued its decision notice. However, the parties have been given the opportunity to comment on the recently adopted document.

Effect on the Character and Appearance of the Surrounding Conservation Area and on the Settings of Listed Buildings

3. The appeal site lies within the Wickham settlement boundary and the Wickham Conservation Area between Mill Lane to the west and the River Meon to the east. To the south is the Grade II* listed Chesapeake Mill with the Grade II listed Mill House. The Mill House has recently been converted into three dwellings, Mill House to the south, Kingfisher House in the middle of the terrace formed and Mable Cottage adjoining the appeal site.
4. A recently constructed detached house, known as The River Garden, is adjacent to the appeal site to the north whilst beyond that is a development of

- 5 detached houses built in the 1990s. A brick boundary wall some 2.85 metres high separates the site, and the development to the north, from Mill Lane. Mill House, Kingfisher House and Mabel Cottage abut Mill Lane to the south.
5. The proposed two storey building, in a modern idiom, generally reflects the modern houses to the north, which are sited behind the boundary wall and are partly hidden by it. In contrast, the listed dwellings further south on Mill Lane are not set back from the Lane highlighting the varied character of the Conservation Area. The plot is sympathetic to the street pattern. The proposed materials on the elevation to Mill Lane are characteristic of the area. Whilst render and extensive areas of glass, shown on the side elevations of the proposed dwelling, are less characteristic of the Conservation Area, the use of these traditional materials, albeit in a modern way, would not justify dismissing this appeal. Indeed, materials are not mentioned in the Council's reasons for refusal.
 6. When approaching the site from the north along Mill Lane some of the views into the Conservation Area are obscured by modern development. The listed Mill House, at the junction with Bridge Street, is not visible in these views from the north and is not screened by modern development.
 7. The siting of the proposed dwelling, close behind the brick boundary wall, would reflect the location of modern dwellings, albeit closer to the boundary wall than other properties and rising around 4.5m above it. The listed buildings nearby front onto the Lane. To a slight degree, the proposal would mask a view of the listed Mill across the appeal site from the existing vehicular access. However, this is not an historic view and was only formed in 2015 when The River Garden and the vehicular access were constructed piercing the boundary wall. Its loss would have no significant impact on the character and appearance of the Conservation Area or on the settings of the nearby listed buildings.
 8. The proposal involves works to the curtilage listed wall that is attached to the Grade II Mabel Cottage. That part of the listed wall to which the proposed dwelling would be attached has been relatively recently reconstructed and, provided fixings were not visible from Mill Lane, the special interest of the wall would not be harmed. The same would apply to a new door opening that would also be constructed in the listed wall and would be acceptable, subject to details to ensure structural soundness. I note that the Officer's Assessment reaches the same conclusion on fixing and the new door opening.
 9. Whilst the proposal would not set a precedent, as every case should be considered on its merits, it would preserve the character and appearance of the Wickham Conservation Area and the settings of nearby listed buildings in accordance with the statutory duty set out in sections 16(2), 66(1) and 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* as reflected in Policies CP.13 and CP.20 of the Winchester District Local Plan Part 1 (WDLP Part 1), and Policies DM15, DM16, DM17, DM27 and DM29 of the Winchester District Local Plan Part 2 (WDLP Part 2), High Quality Places Supplementary Planning Document and the National Planning Policy Framework.

Effect on the Living Conditions of the Occupiers of The River Garden in terms of Visual Intrusion

10. In relation to the planning application only, the property most affected by the proposal would be The River Garden to the north. The orientation means that any overshadowing would not be for a large proportion of the day, as the Council states, but would be in the afternoon when the sun has passed its zenith. One small window serving a first floor staircase landing would face towards The River Garden but this would be obscure glazed precluding any loss of privacy.
11. The ridge of the proposed dwelling would be some 425 mm lower than that of The River Garden and the latter's garden, extending to approximately 7.5 metres, would separate the two dwellings. The proposed elevation would extend some 12.1 metres along the boundary with The River Garden with an eaves height of around 4.9 metres. In the region of 3.5 metres would be alongside the adjoining garden. A roughly 2 metre high hedge currently provides some reduction in outlook. However, views of the river would be maintained. The overall outlook would not suffer to such an extent that it would have an unacceptable impact on the living conditions of the occupiers of The River Garden in terms of visual intrusion.

Other Matters

12. Reference has been made to a restrictive covenant but this is a legal rather than a planning matter. A neighbour considers that the size of the plot has been exaggerated but the red line area has been professionally surveyed and includes the full extent of the scheme, including land in the ownership of others, as required by the Council. Two trees would be removed and two further trees relocated preserving the character of the area.
13. Notwithstanding the concerns of neighbours, the highways engineer raises no objection on parking or safety grounds and I see no reason to reach a different conclusion. There may be some disruption during any construction but this would not justify dismissing the appeal. The site adjoins the River Meon, the banks of which were engineered roughly 200 years ago. The site is not in a Flood Zone and the Environment Agency has raised no objection. Adequate drainage provision could be ensured by condition. The site has potential for contamination but the Council's Environmental Protection section has no objection subject to a safeguarding condition.
14. The site is close to the Solent and Southampton Water Special Protection Area (SPA) and also the Solent and Southampton Water Ramsar site. At a national level it is notified as Titchfield Haven Site of Special Scientific Interest (SSSI). Natural England notes that the Council's consultation does not include a Habitats Regulations Assessment (HRA) and offers the advice that: the proposal is not necessary for the management of the European site; is unlikely to have a significant effect on any European site; and can therefore be screened out from any requirement for further assessment.
15. In recording the HRA it should be noted that the appeal site is within 5.6km of the SPA and Ramsar and will lead to a net increase in residential accommodation. However, the Council has recently adopted a strategic mitigation scheme to mitigate against adverse effects from recreational disturbance on the SPA sites as agreed by the Solent Recreation Mitigation

Partnership (SRMP). Natural England states in its consultation response that provided that the Appellant is complying with the strategic mitigation scheme, evidence of which has been submitted, it is satisfied that the Appellant has mitigated against the potential adverse effects of the development on the integrity of the European sites.

16. In respect of the SSSI, Natural England is satisfied that there is not likely to be an adverse effect on it as a result of the proposal being carried out in strict accordance with the details of the application as submitted. Given the position alongside the River conditions 8 to 10 preventing storage and the use of heavy machinery within 5 metres of the water's edge and requiring all reasonable precautions to prevent pollution of the water course should also be attached as suggested by Natural England. These measures would also safeguard against potential impacts on Water Voles that have been released into the River Meon.
17. Although the South Downs National Park Authority raises a holding objection, the Council's consultation response on ecology notes access from the river is limited and acknowledges Natural England's comments on nearby protected sites. Reference is also made to a Construction Management Strategy that could be required by condition. In those circumstances there would be no adverse effect on ecology.

Conditions

18. Whilst all the suggested conditions would apply to the grant of planning permission, only those relating to 'design and appearance' are relevant to the listed building consent case. Although not raised by the parties, I have attached a condition, in the interests of clarity and good planning, setting out the approved plans.
19. Conditions 3 and 4 relating to materials and joinery details should be attached to both the planning permission and listed building consent given the sensitive location close to listed buildings in a Conservation Area. Due to the ecologically sensitive location a Construction Management Plan should be required as in suggested condition 7. The site is relatively small and given the proximity of nearby buildings conditions 11 and 12 should be attached withdrawing permitted development rights.

Ken Barton

Inspector

Schedule of Conditions relating to both appeals

APP/L1765/W/17/3168977 and APP/L1765/Y/17/3168987

- 1) The development/works hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development/works hereby permitted shall be carried out in accordance with the following approved plans: 831/1C, 2B, 3B, 4A, 5A, and 6.
- 3) No development/works hereby approved shall commence until a full material schedule has been submitted to, and approved in writing by, the local planning authority. The submitted schedule must specify in detail the proposed materials and methods of workmanship proposed,

supplemented by labelled samples and the provision of a 1m.sq sample brick panel on-site for inspection showing the proposed brick type, colour, texture, face bond, and pointing to be approved in writing by the local planning authority prior to the relevant parts of the development/works commencing. The relevant parts of the development/works shall be carried out in accordance with such approved sample panels. The approved sample panels shall be retained on site until the brickwork is completed.

- 4) No development/works shall commence on the scheme hereby approved until full joinery details, at a scale of 1:10, including section/profile details where necessary and all types of finishes, have been submitted to, and approved in writing by, the local planning authority. The submitted details must be referenced against the approved plans, and must show the relationship with the surrounding fabric. The development/works shall then proceed in strict accordance with the approved details.

Additional Conditions relating to appeal APP/L1765/W173168977 only

- 5) Development shall cease on site if, during any stage of the works, unexpected ground conditions or materials which suggest potential contamination are encountered. Development shall not recommence before a site assessment has been undertaken and details of the findings, along with details of any remedial action required (including timing provision for implementation), has been submitted to, and approved in writing by, the local planning authority. The development shall not be completed other than in accordance with the approved details. Potentially contaminated ground conditions include infilled ground, visual evidence of contamination or materials with an unusual odour or appearance.
- 6) Development shall not commence until drainage details have been submitted to, and approved in writing by, the local planning authority. This will include foul and surface drainage and flood resistance/resilience measures.
- 7) Prior to work commencing on the site, a Construction Management Plan shall be submitted to, and approved in writing by, the local planning authority. The Construction Management Plan shall include the following details: Measures for the protection of surrounding ecology; Use of fences and barriers to protect adjacent areas of ecological interest; Avoidance of light spill and glare from any floodlights or security lighting installed; Method for the removal of Japanese Knotweed from the site; The agreed details shall be fully implemented before the development is commenced and the development shall be carried out in accordance with the approved details.
- 8) No equipment, materials or machinery is to be stored within 5m of the water's edge.
- 9) Heavy machinery is not to be used within 5m of the water's edge.
- 10) In accordance with Environment Agency guidelines, all reasonable precautions shall be undertaken to ensure that no pollutants enter the water-course.
- 11) Notwithstanding the provisions of the *Town and Country Planning (General Permitted Development) Order 1995* as amended by the *Town*

and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008 (or any Order revoking and re-enacting that Order with or without modification) no development permitted by Classes A, B, C, D, E or F of Part 1 of the Order shall be carried out without the prior written consent of the local planning authority.

- 12) Notwithstanding the provisions of the *Town and Country Planning (General Permitted Development) Order 1995*, (or any order revoking and re-enacting that order, with or without modification, no windows other than those expressly authorised by the permission shall, at any time, be constructed in the north elevation of the dwelling hereby permitted.