
Appeal Decisions

Site visit made on 11 October 2017

by Lesley Coffey BA Hons BTP MRTPI

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

Decision date: 15th November 2017

Appeal A Ref: APP/B9506/W/17/3177830

Land to the rear of 37 & 38 Set Thorns Road, Centenary Close, Sway, Hampshire SO41 6AG

- 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 William Sparks against the decision of New Forest National Park Authority.
 - The application Ref 16/00886, dated 18 October 2016, was refused by notice dated 19 December 2016.
 - The development proposed is proposed dwelling and detached garage.
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Appeal B Ref: APP/B9506/W/17/3178291

Land to the rear of 37 & 38 Set Thorns Road, Sway, Hampshire SO41 6AG

- 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 William Sparks against the decision of New Forest National Park Authority.
 - The application Ref 17/00192, dated 6 March 2017, was refused by notice dated 28 April 2017.
 - The development proposed is a detached bungalow and garage.
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Decisions

Appeal A Ref: APP/B9506/W/17/3177830

1. The appeal is dismissed.

Appeal B Ref: APP/B9506/W/17/3178291

2. The appeal is dismissed.

Preliminary Matters

3. As set out above there are two appeals. The proposals are broadly similar, but Appeal A relates to a two storey dwelling, whilst Appeal B relates to a bungalow. The appeals have much in common and I have therefore considered the proposals together, but distinguishing between them where appropriate.

Main Issues

4. I consider the main issues to be the effect of the proposal on:
 - The character and appearance of the surrounding area;
 - Highway safety;

- The living conditions of the occupants of 36 Set Thorns Way with particular reference to overshadowing and loss of privacy (Appeal A only) and
- The effect of the proposal on the ecological integrity of the New Forest Special Protection Area (SPA) and the Solent and Southampton Water SPA.

Reasons

Character and Appearance

5. Appeal A The appeal site comprises the end of the rear gardens of 37 and 38 Set Thorns Road. It occupies a corner position with both the southern and eastern boundaries fronting onto Centenary Close. Centenary Close is a cul de sac and the dwellings within it comprise two storey semi-detached properties situated close to the boundary with the public highway. Opposite these dwellings are the rear boundaries of the properties in Set Thorns Road, which for the most part are enclosed by close boarded fencing. In some instances, the boundary has been set back from the carriageway to facilitate the provision of parking spaces. Opposite the southern boundary of the appeal site are the garages and parking for properties fronting Church Lane.
6. The development plan for the area includes the New Forest National Park Local Development Framework Core Strategy and Development Management Policies DPD (December 2010). The appeal site is located within the village of Sway, a 'defined village' where policy CP9 of the Core Strategy states that small scale development is acceptable in principle.
7. The Sway Village Design Statement was published in 2013. It notes that properties within Sway vary in size and style, and that plot sizes are often irregular in size and shape and tend to be generous in comparison to the size of the building. The guidelines for new buildings include the need to maintain generous plot sizes. In terms of style, design and materials building should blend with the local properties within the area. Within the part of Sway where the appeal site is located, proposals are required to respect the spacious character of the locality and not lead to inappropriate high density development.
8. The main elevation of the proposed dwelling would face towards the southern boundary of the site and the garage would be located close to the rear boundary of 38 Set Thorns Road. Due to the alignment of Centenary Close the depth of the appeal site decreases towards the east, consequently the south-eastern corner of the proposed dwelling would extend very close to the southern boundary of the site. It is intended that most of the boundary hedge will be retained. The submitted plans indicate that a short stretch of hedge to the front of the dwelling would be removed. Due to its length this would not have a significant effect on the character of the immediate locality. The retained part of the hedge would provide enclosure to the rear garden and help to integrate the proposed dwelling with the existing development within Centenary Close.
9. The appeal site has a strong visual relationship with the dwelling at 38 Set Thorns Road and it would seem probable that it once formed part of the rear garden of that property. The openness provided by the appeal site contributes to the spacious character of the locality identified by the Sway Village Statement. The existing dwelling and garage at 38 Set Thorns Road extend close to the boundary with the appeal site. Together with the existing built development on this frontage the proposed dwelling and garage would almost

entirely enclose the frontage to Centenary Close. The proximity of the proposed garage to the boundary with Centenary Close, together with that of the south-eastern part of the dwelling to the boundary, would fail to maintain the spacious character of the locality. The size of the plot relative to that of the dwelling would be consistent with other properties in the locality. Nevertheless, given the scale of the proposed dwelling and garage the closure of the gap between 38 Set Thorns Road and Centenary Close would not maintain the spacious character of the locality in accordance with the Sway Village Design Statement.

10. The elevations of the dwelling would be rendered with a brick plinth, tiled roof and grey windows. The brick plinth and tiled roof would reference the materials of the nearby dwellings. Although the immediately surrounding dwellings are red brick, rendered elevations are evident within a short distance of the appeal site and I consider the rendered elevations would combine with the other proposed materials to provide an attractive well detailed dwelling. The appeal site is located within a built up area and lies within the defined settlement boundary for Sway Village. I therefore do not consider that the proposal would urbanise the locality.
11. I therefore conclude that the proposal considered as a whole would fail to comply with policies CP8 and DP6 of the Core Strategy which together seek a high quality of design and aim to protect the distinctive character of the National Park.
12. Appeal B differs from appeal A in that it proposes a bungalow and a single garage rather than a double garage. The proposed dwelling would occupy a similar footprint to Appeal A.
13. The proposed garage would sit behind the front elevation of the existing garage at 38 Set Thorns Road. The reduction in its size by comparison with Appeal A would facilitate the provision of a more substantial garden area to the front of the dwelling. The provision of a bungalow, rather than a two storey dwelling would reduce the prominence of the proposal within the street scene.
14. Whilst the more spacious layout of the site would go some way to addressing my concerns regarding the visual relationship with 38 Set Thorns Road, the proximity of the dwelling to the corner would fail to maintain the spacious character of the locality in accordance with the Sway Village Design Statement. I therefore conclude that the proposal considered as a whole would fail to comply with policies CP8 and DP6 of the Core Strategy which together seek a high quality of design and aim to protect the distinctive character of the National Park.

Highway Safety (Both Appeals)

15. It is proposed to create a new access onto the southern part of Centenary Close. The Highway Engineer suggests that the plans do not show the exact location of the access or sufficient detail as to how the parking spaces would be accessed from the highway. The Council consider that a swept path analysis is necessary to show how the proposed parking spaces could be accessed.
16. The submitted plans provide details of the location and orientation of the garages as well as the forecourt. The garages would be situated opposite the appeal site access directly onto Centenary Close. They have very shallow forecourts and therefore vehicles must reverse in or out of the garages. The existing dwellings within Centenary Close also have insufficient room for

vehicles to turn. No evidence has been submitted to indicate that parking associated with the existing properties has given rise to any highway safety problems.

17. The appeal schemes would benefit from more spacious parking arrangements by comparison with the existing properties. Centenary Close is a relatively narrow road and a cul de sac, and therefore drivers would generally drive with caution along such a road. In the absence of any substantive evidence to the contrary, I am satisfied that both proposals would make satisfactory provision for parking and would not be hazardous to highway safety and would comply with policies DP1 and CP19 of the Core Strategy.

Living Conditions (Appeal A)

18. The proposed dwelling would be orientated north/south. The rear first floor windows proposed would face towards the rear garden of 36 Set Thorns Road and would be separated from the boundary by a distance of about 6 metres. The appellant suggests that this is the part of the garden with the least amenity value and that similar relationships are common within many villages. However due to the height and proximity of the proposed dwelling it would give rise to an unacceptable loss of privacy to the occupants of 36 Set Thorns Road.
19. The proposed dwelling would be located to the south of the garden to 38 Set Thorns Road. Whilst there would be some overshadowing, this would only impact upon a small area of the garden and would be of a limited duration. It would therefore not materially harm the living conditions of the occupants of 36 Set Thorns Road or justify dismissal of the appeal.
20. The proposed dwelling would be separated from the rear gardens of the dwellings in Church Road, by Centenary Close and the garages to the rear of these dwellings. I consider that there would be sufficient separation to ensure that there would be no loss of privacy to the occupants of these dwellings.
21. Although the proposal would not give rise to significant overshadowing to the rear garden at 36 Set Thorns Road, there would nonetheless be an unacceptable loss of privacy contrary to policy DP1 of the Core Strategy which seeks to safeguard residential amenity. I therefore conclude that the proposal would harm the living conditions of the occupants of 36 Set Thorns Road.

SPA (Both Appeals)

22. The appeal site lies within 400 metres of the New Forest Special Protection Area (SPA) and 5.6km of the Solent SPA. The SPA is protected by the Conservation of Habitats and Species Regulations 2010 (The Habitats Regulations). In order for development to be acceptable, these regulations require it to demonstrate that it will have no likely significant effect on the SPA, either alone or in combination with other proposals. If it cannot, measures must be proposed to remove the impact or the proposal should be refused. Policy CP1 of the Core Strategy states that new dwellings within 400m of the SPA will be required to demonstrate that adequate measures are put in place to avoid or mitigate any potential adverse effects on the integrity of the SPA.
23. The appellant submitted a Unilateral Undertaking under s106 of the Town and Country Planning Act 1990. This covenants to make a Habitats Mitigation Contribution. Whilst this Obligation may address the Council's concerns, insufficient evidence has been submitted for me to conclude that it would provide adequate mitigation in relation to the New Forest SPA and the Solent

SPA, or would comply with the tests at regulation 122 and 123 of the CIL Regulations. I am therefore unable to take the Obligation into account.

24. Had the proposals been acceptable in other respects, the Council would have been invited to submit the necessary evidence in relation to its mitigation strategy. However, on the basis of the submitted evidence I am unable to conclude that the proposal would not harm the integrity of the SPA and would comply with Core Strategy policy CP1.

Other Matters

25. The proposals would enable the appellant and his family to live close to his mother. This would enable him to provide the necessary care for her and allow her to retain her independence. This consideration adds weight in favour of the proposals.
26. I have also had regard to the recently permitted dwellings at The Old School House, Church Lane. The appellant suggest that the dwelling to plot ratio in respect of these dwellings is lower than for the appeal schemes. Whilst this may be the case, my conclusions above are not reliant on the dwelling to plot ratio.

Conclusions

27. Appeal A The proposal would harm the character and appearance of the surrounding area, and the living conditions of the occupants of 36 Set Thorns Road due to the loss of privacy. In addition, for the reasons given above, I am unable to conclude that the proposal would provide suitable mitigation in relation to the New Forest SPA and the Solent and Southampton Water SPA. Although I have found that the proposal would be acceptable in terms of highway safety, and that the appellant's personal circumstances weigh in favour of the proposal, the harm identified above is a compelling and overriding objection to the proposal. Consequently, the proposal would not comply with the development plan considered as a whole.
28. For the reasons given above I conclude that the appeal should be dismissed.
29. Appeal B The proposal would harm the character and appearance of the surrounding area. In addition, for the reasons given above, I am unable to conclude that the proposal would provide suitable mitigation in relation to the New Forest SPA and the Solent and Southampton Water SPA. Although I have found that the proposal would be acceptable in terms of highway safety, and that the appellant's personal circumstances weigh in favour of the proposal, the harm identified above is a compelling and overriding objection to the proposal. Consequently, the proposal would not comply with the development plan considered as a whole.
30. For the reasons given above I conclude that the appeal should be dismissed.

Lesley Coffey

INSPECTOR