
Appeal Decision

Site visit made on 12 December 2017

by Rory Cridland LLB (Hons), Solicitor

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

Decision date: 18 January 2018

Appeal Ref: APP/B1740/W/17/3181881

14 Southern Lane, Barton-on-Sea BH25 7JA

- 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 A J Developments Ltd against the decision of New Forest District Council.
 - The application Ref 17/10824, dated 6 June 2017, was refused by notice dated 26 July 2017.
 - The development proposed is to demolish existing garages and erect 1 no 3 bedroom bungalow with detached garage and parking.
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Decision

1. The appeal is allowed and planning permission is granted to demolish existing garages and erect 1 no 3 bedroom bungalow with detached garage and parking at 14 Southern Lane, Barton-on-Sea BH25 7JA in accordance with the terms of the application, Ref 17/10824, dated 6 June 2017, subject to the conditions set out in the attached schedule.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

3. The appeal site is situated on the eastern side of Southern Lane, an established residential street characterised by bungalows which front the highway and which form a strong building line which positively contributes to the character and appearance of the surrounding area. The site itself forms part of what is essentially the rear garden area of No's 14 and 16, albeit that it is currently fenced off from those properties.
4. The proposal would involve the erection of a 3 bedroom detached bungalow together with garage accessed via the existing vehicular access serving No 14. Although the National Planning Policy Framework ("the Framework") indicates that planning authorities may wish to consider the case for setting out policies to restrict inappropriate development in residential gardens, it does not rule out such development and there are no specific development plan policies which restrict backland development in the area.
5. Instead, the Council has raised concerns regarding the design quality of the proposal directing me to Policy CS2 of the Local Plan. This policy seeks to ensure that development respects the character, identity and context of the area's towns, villages and countryside and that it contributes positively to local

distinctiveness. This is expanded upon in the Council's adopted Supplementary Planning Document (SPD)¹ which seeks to identify and protect the local character and distinctiveness of New Milton. Although this takes the form of guidance, it advises that backland development which breaks into and destroys a peaceful oasis of rear garden land should be avoided. Furthermore, it notes that a single insertion of development into the collective rear garden space of a group of dwellings can destroy the integrity of the whole.

6. However, while I note that its aims are to ensure that secure and tranquil islands of cumulative garden space are preserved, this is not the case in Southern Lane where garden sizes vary and contain a variety of other structures and outbuildings. While I accept that the appeal site may provide a pleasant environment for the occupiers of neighbouring properties, it is not of any particular or distinctive character that would warrant its protection from development.
7. Furthermore, the Council accepts that the proposed bungalow would not have any significant impact on the Southern Lane street scene. It would be largely hidden from view and while I note the concerns regarding the impact of the shared driveway, this would not be particularly prominent and its overall impact would be limited. Furthermore, I am mindful that there are other examples of backland development nearby, for example to the rear of No 12 and that this has not had any material impact on the character of the surroundings. The addition of a further dwelling in this location, with its limited visibility, would have only a marginal impact on the character of the surrounding area.
8. Overall, I am not persuaded that the proposed development would negatively impact on the character and appearance of the surrounding area or would be materially harmful to local distinctiveness. As such, I find no conflict with Policy CS2 of the Core Strategy² which seeks to protect against such harm.

Conditions

9. I have had regard to the planning conditions suggested by the Council. In addition to the standard commencement condition, a condition requiring the development to be carried out in accordance with the approved plans is necessary in order to provide certainty. A condition requiring the submission of samples is needed in order to ensure that the dwelling integrates well with the neighbouring properties.
10. A condition requiring car parking spaces is necessary in order to ensure that sufficient parking is provided and in the interests of highway safety as is one in respect of visibility splays. A suitable drainage system is also necessary to ensure that the site is adequately drained and to guard against any flood risk.
11. The Council has also suggested a negatively worded condition to mitigate the effect of increased pressure on nearby protected habitats. It has provided a detailed explanation for securing the appropriate mitigation in this way and I note that this has been accepted by Inspectors in a number of recent appeals. I concur with that approach and consider that, in the present circumstances, this would be an acceptable method to ensure that there would be no significant adverse effects on protected habitats.

¹ New Milton Local Distinctiveness Supplementary Planning Document (2010).

² New Forest District (outside the National Park) Core Strategy (2009).

12. However, the Framework advises that conditions should only restrict national permitted development rights where there is a clear justification for doing so. I am not satisfied that the Council's suggested condition removing permitted development rights for windows and roof lights is necessary as no detailed explanation for it is given.
13. I have, where appropriate, amended the wording of some of the above conditions in the interests of certainty and precision.

Conclusion

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

Rory Cridland

INSPECTOR

SCHEDULE

Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
8886/100D; 8886/101; 8886/102.
- 3) The development hereby permitted shall not be occupied until the spaces shown on plan 8886/100D for the parking and garaging of motor vehicles have been provided. The spaces shown on the approved plan shall be retained and kept available at all times for the parking of motor vehicles for the dwelling hereby approved.
- 4) No development shall commence until details or 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 / samples.
- 5) Visibility splays shall be provided in accordance with Drawing No 8886/100D and shall thereafter be kept free of all obstructions to visibility above a height of 0.6 metres from the surface of the carriageway.
- 6) Before first occupation of the development hereby approved, a surface water sustainable drainage system (SuDS) shall be designed and installed to accommodate the run-off from all impermeable surfaces including roofs, driveways and patio areas on the approved development such that no additional or increased rate of flow of surface water will drain to any water body or adjacent land and that there is capacity in the installed drainage system to contain below ground level the run-off from a 1 in 100 year rainfall event plus 30% on stored volumes as an allowance for climate change as set out in the Technical Guidance on Flood Risk to the National Planning Policy Framework. Infiltration rates for soakaways are to be based on percolation tests in accordance with BRE 365, CIRIA SuDS manual C753 or a similar approved method. In the event that a SuDS-compliant design is not reasonably practical, then the design of the drainage system shall follow the hierarchy of preference for different types of surface water drainage system as set out at paragraph 3(d) of Approved Document H of the Building Regulations. The drainage system shall be designed to remain safe and accessible for the lifetime of the development, taking into account future amenity and maintenance requirements.
- 7) No development shall be carried out until proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such proposals shall include:

(a) mitigation in accordance with the New Forest District Council Mitigation Strategy for European Sites SPD, adopted in June 2014 (or any amendment to or replacement for this document in force at the time), or for mitigation to at least an equivalent effect;

(b) details of the manner in which the proposed mitigation is to be secured. Such details shall include arrangements for the ongoing maintenance and monitoring of any Suitable Alternative Natural Green Spaces which form part of the proposed mitigation measures together with arrangements for permanent public access thereto.

The development shall be carried out in accordance with and subject to the approved proposals.

END OF SCHEULE