



Appeal Decision

Site visit made on 20 February 2018

by Robert Mellor BSc DipTRP DipDesBEnv DMS MRICS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 March 2018

Appeal Ref: APP/C1760/W/17/3181336

Bracken Lodge, Bracken Place, Chilworth, Southampton Hants SO16 3NG

- 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 Dr Inderjit Mandair against the decision of Test Valley Borough Council.
 - The application Ref 16/02399/FULLS, dated 29 September 2016, was refused by notice dated 13 February 2017.
 - The development proposed is described on the decision notice and appeal form as: *'Demolition of existing dwelling and outbuilding: erection of new building containing 9 flats (8 no 2 bed and 1 no 3 bed) parking, landscaping and new sewage treatment plant (revised scheme).'*
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application as first submitted proposed the development of 10 flats but was amended to 9 flats before it was determined by the Council. The parking provision was increased to 20 spaces.
3. After the decision the Appellant has prepared 2 further amended drawings as 13:054:07 Rev D Proposed Elevations and 13:054:06 Rev B Existing and Proposed Site Sections. The first drawing includes an enlarged cycle store. The second drawing shows a cross section of the existing and proposed buildings in relation to the adjacent M3. I am satisfied that no other person's interests would be prejudiced by determining the appeal on the basis of these revised drawings.
4. The covering letter of 1 August 2017 which accompanied the appeal included a list of enclosed documents, not all of which were however enclosed. In particular there is not before me a copy of the report on Foul Water Drainage Investigation prepared by WFBA Engineers dated 27 July 2017. The Appellant's agent declined to submit this when it was requested and the appeal has been determined without the benefit of that evidence.

Main Issues

5. Planning permission was refused for 7 reasons. Three of those reasons are no longer being pursued by the Council on the basis that the Appellant has submitted a S106 unilateral undertaking that firstly makes provision for financial contributions for affordable housing provision and secondly to mitigate

impacts on the habitat of the New Forest and Solent and Southampton Waters Special Protection Areas. The Council now accepts thirdly that the site could not be connected to mains drainage.

6. I therefore consider the main remaining issues now to be: the effect on the character and appearance of the area; whether the occupiers would be provided with adequate and suitable external amenity space; and whether adequate provision would be made for parking without unacceptable harm to road safety or to the convenience of other users of the highway.

Policy Context

7. Statute requires that the appeal is determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan here includes the Test Valley Borough Revised Local Plan DPD (2016) (the RLP).
8. Other material considerations include the Chilworth Village Design Statement.

Reasons

Character and Appearance

9. RLP Policy E1(a) provides that development should integrate, respect and complement the character of the area in which the development is located in terms of layout, appearance, scale, materials and building styles. RLP Policy E2 seeks to protect, conserve and enhance the landscape character of the Borough
10. The appeal site is not within Chilworth's Residential Area of Special Character. However the Chilworth Village Design Statement describes Chilworth's character in general as a semi-rural area which is not overdeveloped. It seeks that the village should retain its character of low density residential development in large plots to maintain and protect its spacious wooded appearance.
11. The appeal property is a detached two storey house with a large outbuilding and garden. It is not in an area of countryside for policy purposes as it is now located within the designated settlement boundary of Chilworth. This part of Chilworth area is mainly characterised by low density residential development. The character of the area is of a type which is often described as 'Arcadian' because the buildings are wholly or partially concealed from the road by trees and other vegetation. It is similar to that of the nearby Residential Area of Special Character. The appeal property is more visible than most because it is seen above the boundary walls and hedges. This includes in views from the immediately adjacent M3 motorway. There are other motorways and main roads nearby associated with the junctions of the M3, the M27 and the A27.
12. Other properties served by Bracken Place include several dwellings of similar scale. Also the larger Bracken Hall which that has been converted to houses and flats, a large nursery school (both outside the settlement boundary) and a large hotel. However those properties are set in extensive grounds with many trees. There is no direct inter-visibility between those larger properties and the appeal site and they would not appear in the same public views. Set amongst trees their greater scale has little impact on the area's character.

13. The declared intention of the Appellant is for the design of the proposed flats to create the impression of a single large dwelling. However I consider that it would be unsuccessful in that regard. The much larger scale and highly articulated form of the building, its increased 3 storey height, and features such as the numerous full height windows and balconies on all floors would reveal it as a flats development from all viewpoints. From the adjacent motorway it would appear as a surprisingly urban feature in a location dominated by woodland and where few other buildings are visible. From Bracken Lane the view into the large formal parking area through the entrance would make it even more obvious that this is not a single dwelling. Neither would there be sufficient space around the building for tree planting or other substantial landscaping to mitigate its visual impact or that of the parking area.
14. I conclude on this issue that the bulk, height, scale and urban character of the building and the parking area would not integrate, respect or complement the character of the area or its wooded and semi-rural landscape character and would thereby conflict with BLP Policies E1 and E2.

Amenity Space

15. The Council does not operate measurable standards for minimum garden size. However RLP Policy LHW4 provides amongst other things that residential development should provide private open space in the form of gardens and open space which are '*appropriate for the needs of residents*'. This requires judgements as to both size and functionality. Particular considerations include that Policy LHW4(c) provides that daylight and sunlight levels reaching private open space are not reduced to unacceptable levels. Also noise and smells are also referred to in the reasoned justification as considerations that can affect residential amenity.
16. In the proposed scheme 4 ground floor flats would be provided with adjacent private gardens. The upper floor flats would have modest balconies and the shared use of a triangular communal space to the north of the building and adjacent to the M3 motorway, from which it would be separated only by a 1.8m high close boarded fence and hedge.
17. Two of the private gardens, four of the balconies, and all of the communal garden area would be on the north side of the building. These areas are likely to be heavily shaded for most of the year and especially in the middle part of the day. This effect is not addressed in the shadow diagrams provided after the decision which only demonstrate that the development would be unlikely to shade neighbouring properties on the opposite side of Bracken Lane.
18. The balconies and the gardens would all be subject to significant noise levels from major roads to the east and west. The acoustic report submitted with the application concluded that noise levels in the private garden areas would be within World Health Organisation guidelines but that noise levels within the communal garden area would not and could not be made so. That report does not address noise levels on the balconies. In some cases the balconies would be in direct line of sight of traffic on the motorway including heavy goods vehicles and with no noise mitigation from the boundary walls and fences. The balconies are therefore also likely to be subject to noise levels above WHO guidelines.

19. Each of the flats would accommodate 2 double bedrooms. Whilst the Appellant suggests that they would appeal to local elderly people downsizing from larger properties and not wanting much outdoor space, they could be accommodated by persons of any age and even elderly residents may be visited by young families. The Council points to a shortage of public open space in Chilworth. Residents and their visitors would thus be highly dependent on the modest provision proposed on-site. Whilst the quantity of open space proposed might be adequate if it were of higher quality, the heavy shading and high noise levels mean that it would be of poor quality and those conditions are likely to deter its use.
20. I conclude on this issue for the above reasons that the provision of private open space would be inadequate and not appropriate for the needs of the residents. The proposal would therefore contravene RLP Policy LWH4.

Parking

21. RLP Policy T2 requires the provision of parking in accordance with set standards. The proposal, as finally amended just before the Council's decision, seeks to provide 20 parking spaces for the 9 flats on the basis of 2 spaces per flat plus 2 visitor spaces. That would appear to accord with the standards so long as the spaces are usable. Space number 1 was widened to make it easier to use. The four tandem spaces would be usable if they were allocated in pairs to individual flats. However 2 of those spaces may require enlargement to make them easier to turn into and to allow more space to open car doors. None of the spaces appear to have been designed to accommodate wheelchair users.
22. The Council has claimed in the appeal statement that an unspecified number of parking spaces near the entrance could not be used for highway safety reasons. That does not appear to have been raised in the highways consultation but the landscape report suggests that a brick wall adjacent to the entrance may need to be modified for enhanced visibility to and from one adjacent parking space. It adds there would be no room for a gate at the entrance however no gate is proposed on the submitted drawings.
23. Modifying the wall need not reduce parking provision but it may increase the visibility of the parking area from the road and thus increase its adverse impact on the character and appearance of the area. Minor adjustments to some other parking spaces may be needed to provide stepping out space, including for the disabled, but that could be achieved using planning conditions. It was not obvious on site that there would be any other difficulty. The enlarged cycle store would provide adequately for cycle storage.
24. Local people have expressed concern about the safety of the sharp bend in Bracken Lane beyond the site but it does not appear likely that traffic to and from the appeal site would use that bend. Bracken Lane now has double yellow lines throughout which should be sufficient to deter on-street parking that might otherwise cause obstruction or safety issues on this narrow road.
25. I conclude on this issue that sufficient parking could be provided to satisfy RLP Policy T2 and to avoid harm to road safety or inconvenience to other road users.

Other Matters

26. I have taken into account all other matters raised in representations. In particular the communal open space area would accommodate (underground) a sewage treatment plant and a settling tank. Treated water is proposed to discharge to the ground within the open space area. The Environment Agency has indicated that it is satisfied in principle with the proposed arrangement for foul drainage in the absence of any local mains drainage. It is likely that surface water would be disposed of in the same way.
27. There is insufficient information before me to determine whether the drainage arrangements would have adequate capacity to be effective or would have any negative amenity impacts on the open space. However as the appeal is being dismissed for other reasons I have not sought further information on these matters. Neither this nor other matters raised outweigh my conclusions on the main issues.

Conclusion

28. My overall conclusion is that the harm to the character and appearance of the area, the inadequate quality of open space provision, and the associated overall conflict with the development plan are not outweighed by a lack of harm in other respects or by the benefits of additional housing provision. The appeal should therefore be dismissed.

Robert Mellor

INSPECTOR