
Appeal Decision

Site visit made on 25 June 2019

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 01 August 2019

Appeal Ref: APP/W1715/W/19/3226718
22 Nightingale Avenue, Eastleigh SO50 9JA

- 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 and Mrs Rakesh Mehta against the decision of Eastleigh Borough Council.
 - The application Ref F/19/84705, dated 27 December 2018, was refused by notice dated 1 March 2019.
 - The development proposed is 1 No. 3 bed detached dwelling with parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council refer to policy DM1 of the emerging Eastleigh Borough Local Plan 2016-2036 (EBLP) in their decision notice. As the plan has not yet been examined I afford it limited weight in my consideration of this appeal.

Main Issues

3. The main issues are (i) the effect of the proposed development upon the character and appearance of the area; and (ii) whether adequate living conditions would be provided for future occupiers of the proposed dwelling in respect of outside private space, and the effect of the proposed development on the living conditions of occupiers of No 22 and No 20 Nightingale Avenue in respect of outlook and privacy.

Reasons

Character and appearance

4. The appeal site is in the rear garden of No 22 Nightingale Avenue, a two-storey end of terrace dwelling at the corner of Wren Road. The building is typical of residential development in the area, which is characterised by rows of terraced, wide, two-storey dwellings on generous sized plots. Properties in the area are generally uniformly aligned and spaced in an established layout. These characteristics, along with the generally broad roads, combine to give the street-scene an orderly and rather spacious feel.
5. Wren Road is a relatively short link road between Nightingale Avenue and Falcon Square. There is a narrow service lane, which provides access to some garages, off Wren Road between the rear gardens of dwellings on Nightingale

Avenue and Falcon Square. The rear garden of No 22 adjoins the corner of Wren Road and the service lane.

6. The proposal would sub-divide the plot such that approximately two thirds of the area of the plot would remain with No 22 and the residual one third would form the appeal site.
7. The proposed dwelling would be positioned in the south east corner of the site tight to the boundary with No 20 Nightingale Avenue and the service lane. It would be arranged over three floors and would be around 5.6 metres wide, 8.9 metres deep, and 9.2 metres tall. Its front elevation, which would be set back approximately 4.0 metres from the pavement, would face west towards Wren Road hence orientated 90° relative to No 22.
8. Taking into account the relatively small size of the appeal site, the scale, location, and orientation of the proposed dwelling, would result in a cramped form of development out of character with the established spacious pattern of built form in the area.
9. Moreover, by virtue of the position of the dwelling in the rear garden of No 22, adjacent to the service lane, it would be conspicuous and incongruous when viewed from within the street-scene. The development would conflict with the generally uniformly aligned layout of properties in the area. Thus, it would be significantly harmful to the character and appearance of the surrounding area.
10. The appellant contends that the development of the site would be an efficient use of brownfield land for much needed housing and in this regard accord with the objectives of the National Planning Policy Framework (the Framework). However, I do not consider the sub-division of this residential plot and the provision of one dwelling, albeit that the appeal site is brownfield land, would outweigh the harm that I have found.
11. For the reasons outlined above, I conclude that the proposal would not accord with the design aims Policy 59.BE of the Eastleigh Borough Local Plan Review 2001 – 2011 (EBLPR); the Supplementary Planning Documents: Quality Places and Character Area Appraisals (SPDs), and the Framework, which amongst other things set out to ensure that development proposals, in terms of siting and layout, take full account of the character of existing development in the surrounding area.

Living conditions

12. The Council's Quality Spaces SPD provides guidance on the provision of useable outside private space for new dwellings. The guidance indicates that for a dwelling of the size proposed a minimum of 62 square metres of space should be provided, however the development would provide only 12 square metres of space.
13. The appellant points out that given the location of the site within an urban environment, where there is provision of public useable amenity space in the locality to supplement the proposal, the outside private space provided by the appeal proposal would be appropriate and reasonable. However, I am not persuaded that the size of the space proposed given that it is considerably below the minimum required by the SPD and taking into account it would be a private garden area where future occupiers would sit out, take advantage of fresh air, and have direct access to the natural environment, positioned

- immediately north of the proposed dwelling and hence the subject of excessive shading from the sun, would be adequately mitigated for by the provision of public amenity space in the locality.
14. Therefore, I consider that adequate living conditions for future occupiers of the proposed dwelling would not be provided for in terms of the provision of useable outside private space.
 15. The third reason for refusal on the decision notice is in regard to the effect of the proposed development on the living conditions of occupiers of No 22 and No 20 Nightingale Avenue in terms of outlook and privacy.
 16. The existing outlook from the rear elevation windows of both properties is towards their respective rear gardens. At its closest the separation distance between the side elevation of the proposed dwelling and the rear elevation windows of No 22 and No 20 would be approximately 12.0 metres and 13.0 metres respectively.
 17. Taking into account the separation distance, the scale, and position tight to the common boundary between No 22 and No 20, the development would be dominant and overbearing upon the outlook from the rear elevation windows and gardens of both dwellings.
 18. In terms of privacy the first floor bedroom window on the side elevation of the proposed dwelling would overlook the rear gardens of No 22 and No 20 and the windows on the rear elevation of both properties would also be affected. The appellant intends to plant trees along the line of the boundary fence between the appeal site and No 22 to reduce any potential overlooking and hence loss of privacy to the occupiers of No 22 and No 20. Whilst trees would afford some screening effect they would take a long time to mature and in any event would not be guaranteed to remain long term. I agree with the appellant that to reduce overlooking from the window serving the bathroom space a condition could be imposed requiring it to be obscurely glazed, however this would not overcome the harm I have found in regard to overlooking from the first floor bedroom window.
 19. For these reasons I conclude the development would have a significantly harmful effect upon the living conditions of the occupiers of No 22 and No 20 in terms of outlook and privacy.
 20. Consequently, for the collective reasons outlined above, the proposed development would not accord with the living conditions aims of Policy 59.BE of the EBLPR; the Quality Places SPD, and the Framework, which requires amongst other things that new development provides adequate outside private amenity space and does not cause unacceptable harm to the amenity of neighbours through loss of outlook and privacy.

Conclusion

21. For the reasons given above I conclude that the appeal should be dismissed.

Andrew Bremford

Inspector