
Appeal Decision

Site visit made on 30 July 2019

by J Wilson BA Hons BTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 16th August 2019

Appeal Ref: APP/X1735/W/19/3227404
101 St Albans Road, Havant PO9 2JS

- 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 & Mrs Spurway against the decision of Havant Borough Council.
 - The application Ref APP/19/00020, dated 17 December 2018, was refused by notice dated 4 March 2019.
 - The development proposed is the erection of 1 no. one bedroom dwelling with associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. During the appeal process the Council raised an additional issue of water quality, a matter which took on importance following a ruling in the European Court of Justice¹ relating to water quality in Appropriate Assessments. Natural England issued advice to Councils as a result of the court case concerning all future development which could affect the water quality of any European Designated Nature Conservation Site. On 26 June 2019 the Council approved a position statement recommending planning conditions be attached to permissions involving residential development where water quality would be affected in this way. I will return to this matter in the body of my decision.

Main Issues

3. The main issues are the effect of the development on:
 - a) the character and appearance of the area;
 - b) the living conditions of future occupiers of the proposed dwelling and the occupiers of the existing dwelling regarding the provision of amenity space;
 - c) the effect of the development on the Chichester and Langstone Harbours Special Protection Area (SPA) in respect of protected species; and
 - d) the likely impact of the development on water quality.

¹ Cooperative Mobilisation for the Environment UA and College van gedeputeerde staten van Noord-Brabant (Case C-293/17 and C294/17)

Reasons

Character and appearance

4. The area is characterised by short terraces of dwellings. There is variation in their positioning in that some run parallel to and others are located perpendicular to St Albans Road. Nonetheless, they display a regularity of proportion, scale, fenestration and general appearance and are of a common palette of materials. The appeal site is at the end of a terrace that runs perpendicular to the road. Together with the two adjacent terraces they exhibit a common building line to St Albans Road in front of which are areas of open space and unallocated parking. These areas separate the road from the residential properties and give the area a spacious and open feel. The proposed new dwelling would be set forward of the established building line. Despite it being partially screened by a tree located within the public open space, and fronting a wide verge between the road and the building, it would be both obtrusive and uncharacteristically prominent in the street scape particularly when approaching from the south.
5. The appeal site comprises part of the existing garden to 101 St Albans Road. It is irregular in shape with a narrow front which widens out only slightly and overall it is a little over 3.5 metres in width. These confined proportions would result in an unusually small dwelling when compared to those around it and the garden would also be significantly smaller and out of keeping with the prevailing character of the area.
6. The proposed dwelling would lack useable amenity space and the car parking space would intrude across the rear of the existing property and leave the existing house with no parking space of its own. The amenity space for the proposed unit would be squeezed between the house and the parking space. The result would be visually intrusive and harmful to the character and appearance of the area.
7. For these reasons the proposal would conflict with Policy CS16 of the Havant Borough Local Plan Core Strategy 2011 (Core Strategy) and to the Havant Borough Design Guide Supplementary Planning Document 2011 (SPD) and to the National Planning Policy Framework (the Framework). These policies and guidance, amongst other things, seek to ensure that development takes full and proper account of the context of the site including the character and appearance of the locality, respecting existing building lines and proportions and emphasises high quality design.

Living Conditions

8. The garden length would be constrained between the rear of the property and the parking space leaving a comparatively small area of garden. The car parking space would span the full width of the proposed property and intrude into the garden space of the existing property which would affect the living conditions of the occupiers of both dwellings. The appellants accept that the dimension of the garden is below the Councils' SPD requirement though argue that this is an advisory amount and not a requirement. Nonetheless, the combination of a small garden to the proposed house and the significantly reduced area which would be imposed on the existing property would, in my view, lead to an unacceptably close and cramped arrangement which would

impact adversely on the living conditions of the occupiers of both the existing and the proposed dwelling.

9. For these reasons the proposal would conflict with Policy CS16 of the Core Strategy; to the Councils' SPD; and to the Framework. These policies and guidance, amongst other things, seek to: ensure that development is designed to a high standard including reflecting the characteristics of the locality in terms of plot widths and depths; does not cause any unacceptable harm to the amenity of neighbours; and produces a positive relationship between buildings and spaces.

Special Protection Area

10. The appeal site lies within close proximity to the Chichester and Langstone Harbours Special Protection Area (SPA). The cumulative effects resulting from development proposals have been assessed and the proposal would be likely to have a significant effect, in combination with other plans and projects, on the SPA through recreational pressure. Residential schemes located within 5.6km of these protected areas are required to make a financial contribution towards mitigation measures as part of the Solent Recreation Mitigation Strategy. These are normally secured through planning obligations.
11. An obligation² has been submitted since the refusal of planning permission and the Council have confirmed that it would provide appropriate mitigation. As a result the Council do not now pursue reason for refusal number 3 and as such the scheme would comply with Policy DM24 of the Havant Borough Local Plan (Allocations Plan) and the Conservation of Habitats and Species Regulations 2017. However, should the development have been considered acceptable in all other respects, I would have had to be satisfied that an Appropriate Assessment³ had been undertaken to ensure the proposal's compliance with the Habitats Regulations in respect of the effect on the SPA. As the application is failing for other reasons I need not consider this matter further.

Water quality issues

12. Natural England advises that levels of nitrogen in the water environment of the Solent region caused by wastewater from housing are causing eutrophication at the designated nature conservation sites which include the Chichester and Langstone Harbours SPA. They advise that one way to address this matter is to achieve nutrient neutrality whereby an individual scheme would not add to nutrient burdens. In accordance with the position statement issued by the Council they have recommended that conditions should be imposed. This is a matter to which I must have regard given the implications of the court ruling⁴. It would be a matter which would be considered in detail through an appropriate assessment as the regulations provide that planning permission can only be granted if the proposal meets stringent tests including (though not exclusively) suitable compensatory measures. However, as I have found the development unacceptable for other reasons it is not necessary for me to complete an appropriate assessment as the effects of the development would not occur.

² Unilateral Obligation dated 15th April 2019

³ in the light of the People over Wind Peter Sweetman v Coillte Teoranta, Case C-323/17 decision by the Court of Justice of the European Union.

⁴ Cooperative Mobilisation for the Environment UA and College van gedeputeerde staten van Noord-Brabant (Case C-293/17 and C294/17)

Other Matters

13. Whilst the appellants argue that there are other new build developments in the vicinity which also project to the roadside edge. As a result, they suggest the Council has already accepted an erosion of the space between buildings and the road in this location. Although I do not have the full details of the permissions referred to, I visited those addresses which were highlighted in evidence. I saw that most were aligned to and were of the same general width as adjacent properties or were domestic extensions to existing dwellings and of generally smaller scale. I did note that some of those examples varied in design and one example resulted in a closer building line to the road than its neighbour. Even so, the examples that I saw do not represent comparable circumstances to the appeal proposal, nor do they set a precedent which I must follow.

Conclusion

14. For the reasons set out and having regard to all other matters raised the appeal is dismissed.

Janet Wilson

INSPECTOR