
Appeal Decision

Site visit made on 17 September 2019

by J Ayres BA Hons, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 10 October 2019

Appeal Ref: APP/C1760/W/19/3230466

Little Meadow, Rudd Lane, Upper Timsbury SO51 0NU

- 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 C English Developments Ltd against the decision of Test Valley Borough Council.
 - The application Ref 18/02707/FULLS, dated 14 October 2018, was refused by notice dated 10 December 2018.
 - The development proposed is described in the application form as erection of four residential units and associated detached garages.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on;
 - the character and appearance of the area;
 - the living conditions of neighbouring occupiers;
 - protected species; and
 - European designated sites.

Reasons

Character and appearance

3. The appeal site sits in a slightly elevated position above Rudd Lane and Manor Farm. Along Rudd Lane the dwellings form a generally linear pattern, and whilst varying in design and size they retain a beneficial level of space between and around them which enhances this semi-rural area.
4. The rear element of the proposal would introduce three large detached dwellings, orientated to face the rear of the existing properties along Rudd Lane. The shape of the plot would require the dwellings to be located in close proximity to each other and there would be very limited space around the dwellings themselves. This tight, compact approach to siting these generously sized dwellings would appear as a cramp and contrived wall of development. The uniformed nature of the siting of plots 2 – 4 would fail to sit comfortably within the context of Plot 1, which would be side on to the wider site. The

proposal would create an almost tandem form of development for plots 2 – 4 in its relationship to those dwellings along Rudd Lane. This would introduce an alien and ill-conceived development to the linear grain of the existing residential properties.

5. Due to the elevated position of the dwellings the development would be readily visible from the public realm. It would in principle be possible to provide some screening along the boundaries, however the close proximity of the dwellings to the boundaries would be restrictive in ensuring that such screening would flourish over a prolonged period of time. Furthermore, the introduction of such a blank, excessive mass of development would be harmful to the open long views of the surrounding area. Accordingly, whilst natural boundaries would assist in softening the scheme, they would not mitigate the harm that the bulk of plots 2 -4 would have on the character of the wider area.
6. Whilst having a restricted relationship with the scheme when viewed as a whole, plot 1 would respect the pattern of existing development and sit more comfortably within the street scene. However, this aspect would not overcome the harm that would be caused by the proposal in its entirety having regard to the layout of the dwellings at the rear of the site.
7. The site is within the settlement boundary and therefore development in principle would be acceptable, however such development should comply with relevant policies relating to design and character. This proposal would result in an ill-conceived and harmful development in respect of its impact on the character of the area. As such I find that it would conflict with Policies E1 and E2 of the Test Valley Borough Revised Local Plan 2016 (the Local Plan) which permits development provided it positively integrates into the landscape and respects and compliments the character of the area. It would also therefore conflict with Policy COM2 of the Local Plan which allows for development within settlement boundaries provided it is appropriate to the other policies contained within the Local Plan.

Living conditions

8. Saddlestones is a single storey residential dwelling located to the south west of plot 1. The proposed dwelling on plot 1 would include a window at first floor level that would be some 8 metres from the boundary with Saddlestones. This window would serve a bedroom, and its proximity to the neighbouring property would compromise the privacy of the occupiers of Saddlestones, as well as prejudicing the privacy of future occupiers of plot 1. In this case, taking into account the fact that the relevant bedroom window would be on the front elevation of the proposed property and would serve a bedroom, I do not consider that the issue could be addressed through the use of obscure glazing.
9. The Holt is located to the south east of plot 1. I am satisfied that due to the distance between the respective properties the proposal would not result in any loss of light or have an overshadowing effect on the occupiers of the Holt. However, the proposed dwelling would have four windows at first floor level on the elevation facing the Holt. These windows would serve bedrooms 2, 3 and 4 along with a bathroom and although they would be at an oblique angle the windows would allow significant overlooking into the garden of the Holt resulting in a detrimental loss of privacy for the occupiers of that property. Whilst it would be possible to attach a condition requiring obscure glass, or to require additional soft landscaping, I do not consider that these measures

would overcome the fundamental loss of privacy that the proposal would cause without being detrimental to the living conditions of future occupiers.

10. No 2 Upper Timsbury Cottages is located to the south west of the appeal site. There is a separation distance of more than 45 metres between No 2 Timsbury Cottages and plot No 2, and as such I am satisfied that the proposal would not result in any adverse impacts in terms of overbearing, overshadowing or loss of light. However, the area to the rear of the garden of No 2 is used as a barbeque area and has a swimming pool which due to low level vegetation is readily visible from the appeal site. Plot 2 would include a first-floor bedroom window on the south west elevation of the dwelling, which would be approximately 8 metres from the boundary. This would allow views both towards the pool area by future occupiers of plot 2, and towards the bedroom window by those using the pool area.
11. Accordingly, I find that the proposal would result in a loss of privacy for neighbouring occupiers and would also prejudice privacy for future occupiers of the proposed dwellings, specifically those residing in plots 1 and 2. It would therefore conflict with Policy LWH4 of the Local Plan which requires development to provide for the privacy and amenity of its occupants and those of neighbouring properties. Due to this conflict it would also conflict with Policy COM2 of the Local Plan which allows for development within settlement boundaries provided it is appropriate to the other policies contained within the Local Plan.

Effect on protected species

12. The appeal site has the capacity to host a number of protected species, including Bats and Great Crested Newts.
13. As part of the appeal process the appellant has provided additional information, that was submitted to the council for a subsequent application for 3 dwellings on the site which is yet to be determined. The information within that assessment identified a number of mitigation proposals that could be incorporated to that scheme.
14. Whilst the assessment is applicable to the site in general terms, it is specifically linked to a separate development. Therefore, mitigation proposals for this scheme may be different, and those would need to be assessed in connection with this particular proposal.
15. I do not consider that it would be appropriate to attach a condition requiring general mitigation if it has not been properly assessed for this scheme. On that basis, I am not satisfied that the effect of the proposal before me on protected species could be adequately mitigated. It would therefore conflict with Policy E5 of the Local Plan which requires development to conserve or enhance biodiversity, and subsequently Policy COM2 of the Local Plan of the Local Plan which allows for development within settlement boundaries provided it is appropriate to the other policies contained within the Local Plan.

Effect on designated European Sites

16. The proposal would result in an increase in dwellings within a zone of influence of the New Forest Special Protection Area, and it is advised by the Statutory National Conservation Body that development within this zone would have a

likely significant effect on the SPA when considered in combination with other plans and projects.

17. Furthermore, it has been advised that increased levels of nutrients entering the Solent and Southampton Water European Designated Sites may have a significant effect upon the integrity of the sites due to possible effects on oxygen and light levels within the water.
18. If I were minded to approve the project it would be necessary for me, as competent authority, to consider the implications of these matters in accordance with the Conservation of Habitats and Species Regulations 2017 and the Habitats Regulations. However, as I am dismissing the appeal on other substantive grounds, as set out above, it is not necessary in these circumstances for me to consider this matter in any further detail.
19. With regards to the development plan, as it is agreed the proposal may have an effect on the integrity of European sites, and no measures are in place to reduce or mitigate those effects, the proposal would conflict with Policy E5 of the Local Plan with regards to conserving biodiversity.

Conclusion

20. The proposal would conflict with the development plan as a whole and there are no material considerations that would outweigh this conflict. Accordingly, for the reasons above the appeal is dismissed.

J Ayres

INSPECTOR