



Appeal Decision

Site visit made on 1 October 2019

by P J Staddon BSc, Dip, MBA (Distinction), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2019

Appeal Ref: APP/B1740/W/19/3223534

Graham Lea, Butts Ash Lane, Hythe, Southampton SO45 3RF

- 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 CR Acquisitions against the decision of New Forest District Council.
 - The application Ref 18/11410, dated 17 October 2018, was refused by notice dated 17 December 2018.
 - The development proposed is to 'erect a pair of 2 bedroom semi-detached and a detached 3 bedroom house with parking.'
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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 effect of the proposal on the living conditions of the neighbouring property, No 51 Butts Ash Avenue, with regard to privacy.

Reasons

Character and appearance

3. The appeal site currently comprises a pleasant traditional style detached dwelling, *Graham Lea*, and its surrounding garden area, situated in Hythe. The house fronts Butts Ash Lane, but it is set well back from this road and is positioned towards the southerly quarter of its broadly rectangular plot, such that it has large front and side garden areas. The plot is mature and attractive and encircled by trees and planting.
4. To the north-east of the site is a more recent development of link houses on Butts Ash Avenue, which includes a driveway leading to a parking area and some garaging to the south-east of the appeal site. To the south-west of the site is a car park which serves a public house, *The Glen*. In the surrounding area, the land use and character is predominantly residential. Although there is a mix of house designs and types, most detached houses are set back from the street and sit within good sized plots. The area has a mature, leafy and attractive suburban residential character and appearance.

5. The appeal proposal seeks to erect a pair of semi-detached houses in the side garden, positioned immediately alongside *Graham Lea*, with their front and rear walls following the lines of the existing property. A third detached house is proposed to be sited in the front garden which would be sideways on to Butts Ash Lane, with its front elevation facing south-westwards (in the direction of the public house car park) and its rear wall facing towards No 51 Butts Ash Avenue, an end of link dwelling to the north-east. Parking to serve the three dwellings would be provided in the middle of the site, with two spaces to serve the retained *Graham Lea* indicated on its south-west side.
6. Whilst noting the appellant's submissions on design and local character, in my assessment, the semi-detached properties would be sited in very close proximity to *Graham Lea* and would appear cramped and shoehorned in next to it. This would be uncharacteristic of detached properties in the area which are generally well separated, with the garden spaces between the houses contributing to the attractive character of the area.
7. The proposed detached house would not respect the pattern of development in the area, as it would be sited in the front garden of *Graham Lea* and directly in front of part of its front elevation, obscuring its main aspect and diminishing its relationship with Butts Ash Lane. Moreover, the 'side on' orientation of the proposed house would be at odds with the local pattern and character of development, where detached properties typically face the street and are set behind front gardens. Whilst recognising that the plot is currently well screened and that semi-mature planting is proposed on the road frontage (where some trees are to be removed), this does not overcome the harm that I have identified. I have also taken into account the other examples of 'one behind the other' patterns of development submitted by the appellant, but these cases are not directly comparable to the appeal proposal, which must be determined on its own particular planning merits.
8. Furthermore, the three dwellings taken together, along with their quite extensive proposed central parking areas, restricted plots sizes and the associated loss of vegetation and trees, would not respect or respond positively to the character and appearance of the surrounding area.
9. On this main issue, I conclude that the appeal proposal would be harmful to the character and appearance of the area. This would conflict with policy CS2 of the New Forest District (outside the National Park) Core Strategy (adopted October 2009) (the CS), which requires developments to be well designed to respect local character, identity and context and to contribute positively to local distinctiveness and sense of place, being appropriate and sympathetic to its setting. It also conflicts with the National Planning Policy Framework (the Framework) which, at paragraph 127, similarly requires developments to respect local character and contribute to the overall quality of the area.

Living conditions – No 51 Butts Ash Avenue

10. The proposed detached dwelling unit would be sited in the current front garden of *Graham Lea*. Its rear wall would face towards No 51 Butts Ash Avenue, which is a two storey end of link dwelling with a modest size rear garden. The rear wall of the proposed house would contain a kitchen window and a dining room window / patio doors on the ground floor and two bedroom windows at first floor level.

11. The distance between these windows and the habitable room windows in the rear face of No 51 would be 16.5 metres, according to the appellant's submissions. An existing boundary fence would avoid any undue privacy effects from the ground floor windows. However, the proposed removal of existing trees near this boundary, along with the limited separation distance, would mean that the first floor bedroom windows would allow views directly into habitable room windows, the conservatory and private garden at the rear of No 51.
12. I assess that this would be an uncomfortably close and intrusive relationship, given the existing levels of privacy enjoyed by occupiers of No 51 and its suburban context, where such overlooking effects at close quarters are not typical. Whilst I note the appellant's opinion that occupants of the existing and new properties will install curtains or blinds to provide privacy, this does not render the physical relationship between the existing and proposed dwellings acceptable in Planning terms, as the opportunities for harmful overlooking would remain.
13. I conclude on this main issue that the proposal would be harmful to the living condition of No 51 by virtue of loss of privacy arising from overlooking windows. This conflicts with CS policy CS2, which requires that developments do not, amongst other matters, cause unacceptable overlooking effects. It also conflicts with the Framework which, at paragraph 127(f), requires developments to secure a high standard of amenity.

Other matters

Habitats Regulations

14. A large part of the Council's area is designated as European sites as defined in Article 8 of The Conservation of Habitats and Species Regulations 2017 ('The Habitat Regulations'). The Habitat Regulations Assessment of the Local Plan concluded that likely significant impacts on the integrity of the European sites, namely the increased recreational usage of the sites generated by the planned for increases in the number of houses in the District during the plan period, could not be ruled out unless a satisfactory level of mitigation was provided.
15. The Council has adopted a Mitigation Strategy¹ which allows new residential development to proceed in compliance with the Habitat Regulations. The Council has undertaken an Appropriate Assessment in respect of the appeal proposal and consulted Natural England (NE) which has advised that, subject to mitigation measures, the development should not result in a likely significant effect. This is a matter of neutral weight in this case.

Five year housing land supply

16. The Council accepts that it cannot currently demonstrate a 5 year housing land supply. Under paragraph 11d) of the Framework (and its Footnote 7), this means that the presumption in favour of sustainable development applies, unless either i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii) any adverse impacts of doing so would

¹ New Forest District Council - Mitigation Strategy for European Sites: Recreational Pressure from Residential Development Supplementary Planning Document (2014).

significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

17. Habitats mitigation measures (see paragraph 15 above), which could be secured by a Planning condition, could satisfy criterion 11d(i). However, I assess the harm to the character and appearance of the area, and to the living conditions of No 51 Butts Ash Avenue, to be significant and demonstrable such that the appeal proposal would not be sustainable development and should not therefore be permitted.

Highway safety

18. From the body of third party representations, I have noted concerns about traffic generation and highways safety matters. However, the Council has raised no substantive objections on these matters and there is no convincing evidence before me to indicate that the development would create unacceptable road safety issues or problems.

Conclusion

19. For the reasons stated above, the appeal is dismissed.

P. Staddon

INSPECTOR