
Appeal Decision

Site visit made on 8 October 2019

by Janet Wilson BA (Hons) BTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 23 October 2019

Appeal Ref: APP/B1740/W/19/3231024

Hathaway House, Lower Pennington Lane, Pennington SO41 8AN

- 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 Cullen against the decision of New Forest District Council.
 - The application Ref 19/10153, dated 1 February 2019, was refused by notice dated 23 April 2019.
 - The development proposed is described as sever land and new dwelling and garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (The Framework) was revised in February 2019 and whilst the Councils' decision notice refers to the 2018 version of the Framework my consideration of this appeal is under the 2019 document. Any reference in this decision to the Framework therefore refers to the 2019 document.
3. An amended plan is referred to in evidence which is included to correct the detail of the adjacent property to show a flat roofed garage rather than a pitched roof. No party would be disadvantaged by my consideration of the amended plan.

Main Issues

4. The main issues are the effect of the development on: a) the character and appearance of the area; and b) the living conditions of the occupiers of the adjacent dwelling with regard to outlook and light.

Reasons

Character and appearance

5. The area is characterised by development comprising individual dwellings in generally spacious plots which are essentially low density. Whilst in an established residential area the appeal site forms part of the rear garden to the host property. The proposed dwelling would be low rise, contemporary in appearance and located tight to the rear and side boundaries of the site.
6. The adopted Lymington Local Distinctiveness Supplementary Planning Document 2011 (LLSPD) includes this site within the rural lanes character area

defining development as ribbons lining old rural lanes and comments that the building types underpin the ruralness of the area. One of the defining elements is the degree of separation between properties which is reflected in the guidance. This states that 'the spatial setting of buildings must be carefully considered to avoid development appearing 'overbearing' or 'cramped'. Extensions that may seem perfectly reasonable in other respects can not only destroy the spatial setting of the host building but also that of neighbouring buildings.

7. The appeal site is in a residential area where the principle of additional development is not at issue. There are examples of development within rear gardens however this does not mean that every site is suitable for development. Nonetheless, within the context described I consider the proposal would result in an uncharacteristic form of development set tight to the boundary of the site and at odds with the pattern of surrounding dwellings. As such it would fail to reflect the character of development in the area nor would it be locally distinct.
8. Consequently, the development would conflict with Policy CS2 of the new Forest District (outside of the National Park) Core Strategy 2009 (the Core Strategy); to the Framework and to the aims of the Councils' LLSPD. These seek to ensure that development: is appropriate and sympathetic to its setting in terms of scale, density and layout; which complements the built form; and which takes the opportunity to improve the character and quality of an area and the way it functions.

Living conditions

9. Shadow diagrams from the summer months illustrate that there would be no significant impact with regard to any loss of light to No.37 Elm Road (No.37) which is a bungalow with its principal outlook towards the appeal site. The appellant argues that the building is not a single solid mass but appears as a compartmentalised building of varying height which mitigates the impact on the neighbouring property. I found that the orientation of the building directly to the south of No.37 would have an impact on the bungalow to a greater extent in the winter months but not sufficient in itself to warrant the withholding of permission in relation to the impact on loss of light.
10. In respect of the relationship with properties on Newbridge Way which have deeper gardens than No.37; the visual effect would be mitigated by the existing mature planting which would effectively ameliorate any impact and from where only the roof of the proposal would be visible.
11. Nevertheless, the effect of the height, length and bulk of the proposed building (measuring 5.5 metres at around 12 metres from the face of No.37 and between 0.5 and three metres from the garden boundary) would be oppressive and overbearing and would affect the living conditions of the occupants of No.37 to their detriment. This impact would not be sufficiently ameliorated by the additional planting which the appellants have undertaken.
12. For the above reasons the development would conflict with Policy CS2 of the Core Strategy and to the provisions of the Framework. These policies, amongst other things, require that new buildings should not cause unacceptable effects on local amenity and should ensure a high standard of amenity for existing users.

Other matters

13. It has been emphasised that the architectural mass of the building has been revised from an earlier scheme in order to achieve two distinct wings and a recessive visual gap. Moreover, it is argued that these pre-application submissions properly acknowledge that the site is suitable. However, there are no permissions in place from these former approaches and I am required to make a decision on the appeal scheme as proposed and not an assessment of the differences to earlier pre-submission schemes. In any event, despite the location within a primarily residential area, I have found the bulk and massing of the proposal would be unacceptable in relation to the neighbouring dwelling and that the proposal would cause harm to the character and appearance of the area and the pre-submission discussions do not influence my findings in relation to the appeal scheme.
14. The Council identified that the development would have an effect on the integrity of the New Forest and Solent Coast European sites and as a result carried out an appropriate assessment. Whilst it is possible that measures could be put in place to mitigate against the effect of the development on the SPA, which could potentially be secured through a planning condition, I would also have had to undertake an appropriate assessment exercise myself. However, as the appeal is failing for other reasons, I need not consider this matter further.
15. The appellants draw attention to the suitability of the site for a dwelling and are acknowledged to have made efforts to address identified concerns through pre-application discussions referring to the Councils' preference for a centrally located position for the dwelling which they say is not justified. It is not the function of this appeal to comment on or consider alternative proposals which are a matter for the Council in the first instance.
16. I have had regard to the fact that there is no dispute that the appeal proposal would provide at least the minimum amount of garden space and that there are no design issues raised. These factors do not however outweigh the harm which I have identified in relation to the main issues.
17. Attention has been drawn to the fact that the Council proposes to allocate additional housing land close to the appeal site, however such allocations do not yet form part of the development plan. As this refers to a matter subject to the future local plan preparation which is at an early stage, I can give this matter very little weight.

Planning Balance

18. There is no dispute that the Council is not able to demonstrate a 5-year supply of deliverable housing sites. This represents a housing shortfall. In such circumstances, paragraph 11 of the Framework indicates that housing policies should be regarded as out of date and that the 'tilted balance' presumption in favour of development should prevail unless any adverse impacts would significantly and demonstrably outweigh the benefits. I acknowledge that the provision of one dwelling would make a contribution to the local housing supply and would be a benefit. However, that contribution would be very modest, and the benefit which would accrue is insufficient to significantly and demonstrably outweigh the harm which I have identified in relation to the main issues.

Conclusion

19. For the above reasons and having considered all other matters before me, the appeal is dismissed.

Janet Wilson

INSPECTOR