



Appeal Decision

Site visit made on 15 October 2019

by S Edwards MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2019

Appeal Ref: APP/B1740/W/19/3233147

Tudor Close, 85 Milford Road, Pennington SO41 8DN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by AJ Developments against New Forest District Council.
 - The application Ref 19/10319 is dated 8 March 2019.
 - The development proposed is described as 'demolish existing building and erect 4 no 3 bedroom houses with parking'.
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Decision

1. The appeal is dismissed and planning permission for 'demolish existing building and erect 4 no 3 bedroom houses with parking' is refused.

Preliminary Matters

2. The application was submitted in outline. The application form indicates that approval is only sought for access, layout and scale, and this is reflected on the submitted plans. As appearance and landscaping are reserved for subsequent determination, I shall therefore consider details of the proposed elevations and landscaping solely for illustrative purposes.
3. The appeal is against the non-determination of a planning application. However, the Council have detailed their concerns within their appeal statement, and advised that, had they been in a position to determine the application, it would have been refused.
4. The appellant submitted amended plans during the course of the application, which were not considered by the Council or subject to public consultation. Amendments to the proposal include the loss of a car parking space to provide on-site turning (drawing no.8944/400 Rev.B) and changes to the paper size (drawings nos.8944/401 Rev.B and 8944/402 Rev.B). In the interests of fairness and natural justice, and particularly as the Highway Authority has not commented on the reduction to the number of parking spaces or the provision of a turning area, I shall determine this appeal based on the plans which were considered by the Council.

Main Issues

5. The main issues are the effect of the proposal on:
 - The character and appearance of the area; and
 - Highway safety.

Reasons

Character and appearance

6. Located within an area of primarily residential character, the appeal site comprises a two-storey dwellinghouse which, like many other properties within the immediate surroundings, lies within a very large plot and is set back significantly from the road frontage. This, together with the visual separation between the appeal property and neighbouring dwellings either side, contribute to the open and spacious character which defines this area.
7. As detailed in the Lymington Local Distinctiveness Supplementary Planning Document¹ (SPD), the appeal site lies within the South Pennington Character Area, which refers to Milford Road as a green corridor, predominantly by reason of the large gardens, frontages furnished with trees and hedges, and wide green verges.
8. The redevelopment of the site has already been considered as part of two recent appeals (APP/B1740/W/18/3208545 and 3204910). In dismissing both appeals, the Inspector found that the proposed blocks of flats would, by reason of 'the increased presence of built form across the frontage', 'appreciably diminish both the spaciousness of the plot, and the spacing between it and neighbouring buildings'.
9. The appellant sought to address the concerns raised by the Inspector by proposing to demolish the existing property and erect a terrace of four dwellings. However, despite the proposed changes, the appeal scheme would still constitute a substantial intensification of development on the plot, particularly by reason of the sprawling nature of the two-storey terrace across a significant proportion of the plot's width.
10. This would be exacerbated by the extensive areas of hardstanding which would be created to the front of the site for the provision of car parking spaces, vehicular access and turning areas associated with the appeal scheme. The subdivision of the rear garden, which would be visible from neighbouring properties, would also appear out of keeping with the prevailing character of the area. Cumulatively, these elements would significantly erode the spacious nature of the appeal site, and have an urbanising effect which would harmfully contrast with the character of this area.
11. I note that the existing landscaping would be retained, and that the appellant sought to minimise the visual impact of this hardstanding area by angling the proposed vehicular access. In my opinion, this would not however be successful, particularly by reason of the centred position and widened nature of the proposed driveway. Whilst it is suggested that additional landscaping could be introduced along the vehicular access, I have not been provided with any substantive details to illustrate the form that such landscaping would take, and whether this would constitute an effective solution.
12. My attention has been drawn to other developments situated on the opposite side of Milford Road, but these are set within a different context, and I am therefore not convinced that these schemes constitute a direct parallel to the proposal before me which, in any event, I am required to determine on its individual merits, and having notably regard to its immediate surroundings.

¹ Adopted in February 2011.

13. For the foregoing reasons, I conclude that the proposal would unacceptably harm the character and appearance of the area. It would therefore conflict with the design aims of Policy CS2 of the New Forest District (outside the National Park) Core Strategy² (CS) and the supporting guidance contained within the Lymington Local Distinctiveness SPD. Furthermore, it would fail to accord with the National Planning Policy Framework (the Framework), which notably states that developments should add to the overall quality of the area and are sympathetic to local character and history, including the surrounding built environment and landscape setting.

Highway safety

14. The appeal scheme would entail the relocation of the vehicular access and include the formation of 10 car parking spaces. Although I note the comments made by the Highway Authority in respect of additional visitor parking, the number of spaces proposed would appear consistent with the requirements of the Parking Standards SPD³.
15. Milford Road is a busy 'A' classified road, which is subject to a 30mph speed restriction. Whilst my observations can only represent a snapshot of normal highway conditions, it was clear that this road experiences fairly constant traffic passing the site in both directions. I visited the site in the morning, and during peak hours, it would therefore be reasonable to expect an increase in traffic over and above what I saw at the time of my visit.
16. The proposed parking layout would include limited turning space, and protracted manoeuvres would therefore be required to enable drivers to enter and leave the site in a forward gear. In the absence of substantive evidence demonstrating otherwise, it appears likely that larger vehicles would have no other option but to reverse onto the road, which would in turn increase the risk of collisions with users of the footway and carriageway, particularly because of the level of traffic along Milford Road.
17. I therefore conclude on this issue that the proposal would pose an unacceptable risk to highway safety and therefore conflict with CS Policy CS2. This policy notably seeks to ensure that development proposals incorporate well integrated car parking, and pedestrian routes. It would also fail to accord with paragraph 109 of the Framework, which states that development should be refused on highway grounds if there would be an unacceptable impact on highway safety.

Other Matters

18. The appeal site lies within proximity to a number of significant environmental designations of international nature conservation importance, which are collectively known as the New Forest European sites⁴ and the Solent Coast European Sites⁵. It is accepted that the proposal would have, in combination with other plans and projects, a likely significant effect on these European and International wildlife sites, by reason of the increased recreational pressure which additional residential development places on these sensitive areas. In

² Adopted in October 2009.

³ Dated October 2012.

⁴ New Forest Special Protection Area (SPA), New Forest Special Area of Conservation (SAC), New Forest Ramsar Site.

⁵ Solent Maritime SAC, Solent and Southampton Water SPA, Southampton and Isle of Wight Lagoons SAC, Solent and Southampton Water Ramsar Site.

accordance with the Mitigation Strategy for European Sites SPD⁶, residential development proposals are required to make a financial contribution towards mitigation measures.

19. In addition, the Council has advised that increased levels of nitrogen and phosphorous are causing a dense growth of certain plants, otherwise known as eutrophication, which is impacting on the Solent's protected habitats and bird species. On this basis, Natural England has recommended that the proposal achieves nitrate-neutrality to prevent any likely significant effects on the SPAs.
20. As the appeal is being dismissed on other substantive grounds, these are not matters which need to be considered further here. However, had the development been considered acceptable in all other respects, I would have sought to explore the implications of the *People over Wind*⁷ decision by the Court of Justice of the European Union.
21. A number of concerns have been raised by interested parties, notably in respect of the effect of the proposal on the living conditions of neighbouring residents, which I have noted. However, as this appeal is being dismissed on other grounds, it is not necessary for me to consider these matters further as part of this appeal.
22. The Council is currently unable to demonstrate a five-year supply of deliverable housing sites. In such circumstances, paragraph 11 d) of the Framework, as directed by Footnote 7, indicates that the policies which are most important for determining the application are considered out-of-date. In the absence of policies within the Framework protecting areas or assets of particular importance which are relevant to this proposal⁸, paragraph 11 d) states that planning permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
23. The appeal scheme would support the local economy to some degree, through the creation of work opportunities and demand for materials during the construction phase. Beyond that, future residents may use local services and facilities. It can be argued that part of the social dimension would be fulfilled as the proposal would contribute towards housing supply and choice. However, although smaller developments have a cumulative value, the contribution made by a net gain of three additional dwellings would be relatively limited. Against that, I have found harm relating to the effect of the proposal on the character and appearance of the area and highway safety. This subsequently means that the environmental objective would not be fulfilled.
24. Consequently, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the modest benefits which would be derived from the proposal. Taken as a whole, the proposal does not constitute sustainable development which the Framework carries a presumption in favour of. There are no other material considerations which indicate that the proposal should be determined other than in accordance with the development plan, which I have already identified conflict with.

⁶ Adopted June 2014.

⁷ *People over Wind*, Peter Sweetman v Coillte Teoranta, Case C-323/17.

⁸ Paragraph 11d) and Footnote 6.

Conclusion

25. I conclude that, for the reasons given above and having regard to all other matters raised, the appeal should be dismissed.

S Edwards

INSPECTOR