



Appeal Decision

Site visit made on 10 March 2020

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 24 March 2020

Appeal Ref: APP/L1765/W/19/3242592

22 Hampton Lane, Winchester SO22 5LF

- 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 Phil & Aggy Russell against the decision of Winchester City Council.
 - The application Ref 19/01208, dated 31 May 2019, was refused by notice dated 29 October 2019.
 - The development proposed is the demolition of existing single dwelling being replaced by erection of a single dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Philip and Mrs Aggy Russell against Winchester City Council. This application is the subject of a separate Decision.

Procedural Matters

3. During the course of the appeal, the Appellants have submitted amended plans and maintains that the amended scheme would overcome the Council's reason for refusal in relation to the planning application. The Appellants further maintain that as the amended plans have also been submitted as a separate planning application¹, there has been sufficient opportunity for interested parties to submit comments in respect of the amended scheme.
4. In deciding whether to accept the proposed amended plans to the appeal scheme, I am mindful of the principles of *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37] and the guidance contained within the Planning Appeals: Procedural Guide. In this instance I have concluded that, by reason of the nature and extent of the proposed amendment, the proposal in relation to the amended plans would be so changed, that to make my decision on that basis would deprive those who should have been consulted the opportunity of such consultation.
5. Whilst I acknowledge that the Appellants have submitted these amended plans as part of a new planning application and have made efforts to seek the views of nearby residents in relation to the amended scheme, the amended scheme nonetheless forms part of a separate planning application. As such, to proceed

¹ Local Planning Authority Reference: 19/02678/FUL

with determining this appeal on the basis of the amended plans would deny nearby residents of the opportunity to provide comments in relation to this appeal. I have not been provided with details of any further comments received from interested parties in relation to the amended plans. Consequently, the amended plans will not be considered, and the appeal will be decided based on the proposal which was refused by the Council.

Main Issues

6. Although the Council has given one reason for refusal, having reviewed the evidence I have considered it appropriate to identify two main issues.
7. The main issues are:
 - The effect of the proposed development on the character and appearance of the surrounding area; and,
 - The effect of the proposed development on the living conditions of nearby residents with particular reference to outlook and sunlight.

Reasons

Character and Appearance

8. The appeal site is located on the western side of Hampton Lane and within a residential area which is characterised by well-proportioned detached dwellings comprising a variety of styles and designs, positioned within generous but narrow grounds and set back from the highway behind front gardens which exhibit a rich diversity and abundance of vegetation. The lane is single track in width, with dwellings on the western side of the highway being predominately aligned with each other in terms of their set back from the highway.
9. The proposal seeks to replace the existing building at the site with a dwelling which would be significantly larger in terms of its mass, bulk and depth of footprint. The resulting replacement dwelling would be positioned within the site so that the front elevation would be in alignment with the front elevations of the nearby dwellings within Hampton Lane.
10. Whilst the appeal proposal would reflect and respect the linear pattern and alignment of dwellings on the western side of Hampton Lane, the design of the proposed replacement dwelling in respect of its mass, bulk and in particular the depth of its footprint, would not reflect the character and appearance of neighbouring and nearby residential dwellings.
11. Whilst I acknowledge that the front elevation of the proposed dwelling would be partially screened from views within Hampton Lane due to the presence of mature trees, the land to the rear of the existing dwelling slopes steeply downhill from east to west and is more open in character and appearance. The mass, bulk and depth of the rear elevations of the proposed scheme would be highly visible to those living within, or travelling along, Teg Down Meads.
12. In my view, the depth of footprint when combined with the bulk and mass of the proposed scheme, would result in a dwelling which, from the area west of the appeal site, would not appear to reflect or respect the character and appearance of residential dwellings within Hampton Lane. Whilst I acknowledge that there would be some additional screening vegetation incorporated within the appeal scheme, by reason of the sloping nature of the land to the rear, the

proposed dwelling would be prominent within the wider surrounding area. The bulk and mass of the proposed dwelling would not reflect the character or appearance of the nearby neighbouring dwellings and would be an incongruous feature on the hillside which would draw the eye of those travelling along, or residing within, Teg Downs Meads.

13. As noted above, there is some variety in terms of the style of dwellings located within Hampton Lane. Consequently, I do not find that the proposed materials to be used in the construction of the appeal scheme would be necessarily harmful to the character and appearance of the surrounding area. However, in my view the use of the proposed materials would not overcome the harm to the character and appearance of the surrounding area which would arise from the bulk, mass and depth of footprint with regards to the proposal and which would be somewhat visible from within Hampton Lane.
14. For the above reasons, the appeal scheme would be harmful to the character and appearance of the surrounding area. Whilst I acknowledge that the proposal would provide some screening vegetation, this would not be sufficient to overcome the harm to the character and appearance of the surrounding area that would arise from the appeal scheme.
15. Consequently, the proposed development would conflict with Policy CP13 of the Winchester District Local Plan Part 1 – Joint Core Strategy² and would be contrary to Policies DM15 and DM16 of the Winchester District Local Plan Part 2 Development Management and Site Allocations³ (the LPP2) which, together and amongst other things, seeks to ensure that development does not have an unacceptable effect on the character of the area, and should respect the qualities, features and characteristics that contribute to the appearance and distinctiveness of the local area. Furthermore, and for the same reasons, the proposal would not accord with the aims and objectives of the St Barnabas West Winchester Neighbourhood Design Statement.

Living Conditions

16. As noted above, the proposed replacement dwelling would be substantial in terms of its scale, height and bulk. The proposal would include an extension to the rear northern section of the replacement dwelling, and would result in a new dwelling and extension which would be positioned in close proximity to and running parallel to the adjacent dwelling and garden at 20 Hampton Lane which is located northeast of the appeal site.
17. By reason of its height, bulk and proximity to the shared boundary with 20 Hampton Lane, the proposed replacement dwelling and rear extension would result in a substantial, predominately blank, side elevation which would be overly dominant and oppressive. In my view, this would have an overbearing and enclosing impact on the residents of 20 Hampton Lane and particularly in respect of the use of the outdoor amenity space to the rear of that dwelling. Accordingly, the appeal scheme would be significantly harmful to the living conditions of occupants of 20 Hampton Lane and would result in unacceptable living conditions with regards to outlook.
18. The Council maintains that the appeal scheme, by reason of its height, bulk and proximity to the shared boundary, would also result in an unacceptable

² Adopted March 2013

³ Adopted April 2017

loss of light for residents of 20 Hampton Lane. In this regard, the Appellants have provided a plan and assessment of the shadowing that would occur at the Equinoxes, and at both midday and during early afternoon, in relation to the proposed scheme's impact on 20 Hampton Lane.

19. The "Shadows at the equinox's" assessment as provided by the Appellants, shows that, during the relevant times, a substantial area of garden at the rear of 20 Hampton Lane would be significantly overshadowed by the depth of footprint and mass of the proposed replacement dwelling. By reason of the significant amount of overshadowing that would occur, the living conditions of residents at 20 Hampton Lane would be unacceptably diminished with regards to loss of light.
20. For the above reasons, the proposed development would have a significant and harmful effect on the living conditions of residents of 20 Hampton Lane with regards to both outlook and loss of light. Accordingly, the appeal scheme would conflict with Policy DM17 of the LPP2 which, amongst other things, requires that development does not have an unacceptable adverse impact on adjoining property by reason of overshadowing or by being overbearing.

Conclusions

21. For the reasons given above, the appeal should be dismissed.

A Spencer-Peet

INSPECTOR