
Appeal Decision

Site visit made on 10 March 2020

by Janet Wilson BA (Hons) BTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 30th March 2020

Appeal Ref: APP/J1725/W/19/3241757

87 Leesland Road, Gosport, Hampshire PO12 3NE

- 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 Mike Sealey against the decision of Gosport Borough Council.
 - The application Ref 19/00224/FULL, dated 13 May 2019, was refused by notice dated 19 August 2019.
 - The development proposed is described as residential development to form four one bedroom flats
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Decision

1. The decision is dismissed.

Preliminary Matter

2. The appellant points to a drafting error by the Council in relation to reason 1 of the Councils' decision notice. This refers to parking provision for the existing property. As the site is devoid of buildings there is no existing built property. The Council acknowledge this error in the decision notice. As the plans and description of the development are clear, there would not be any prejudice to parties for me to deal with the appeal having acknowledged the Councils' error and having seen for myself that the appeal site was a cleared site.
3. Amended plans were submitted to the Council during the life of the planning application and were considered by the Council in reaching their decision. I have considered this appeal on the same basis. I note that video evidence relating to vehicle tracking was supplied to the Council and provided to the Inspectorate. As video material cannot be accepted by the Inspectorate the appellant was given an opportunity to provide photographs. As an alternative the appellant refers to Drawing Numbers 126C and 128C which contain the swept path information and which I have considered in reaching a decision.

Main Issues

4. The main issues are the effect of the development on:- a) the character and appearance of the area; b) parking provision and highway safety; c) the living conditions of the occupiers of adjacent properties; d) the Special Protection areas of :- Portsmouth Harbour, The Solent and Southampton Water; and Chichester and Langston Harbour; and e) nutrient discharge into European and Internationally designated habitat sites.

Reasons

Character and Appearance

5. The road is characterised by terraces of properties tight to the pavement edge and some semidetached buildings exhibiting ground floor projecting bay windows which are set back from the pavement with short gardens and low frontage boundary walls. The appeal site is an unkempt and overgrown area of land forming a gap between an existing terrace and a pair of semidetached properties. It also includes a long strip of land around 4 metres in width and over 100 metres in length. This extends from the rear boundary of the site and is intended as communal shared garden for the proposed flats.
6. The development would be attached to the semidetached property immediately to the south of the site. The building would be almost as wide as the adjacent existing semi-detached pair of properties; it would incorporate vehicular access underneath first floor accommodation which would serve a car park area to the rear. The building would be detailed to match the materials and design of the building to which it would be attached. It would include bay windows at both ground and first floor and would be the same height (save for the lack of chimneys) as the attached building being taller at both eaves and ridge as the terrace to the east which is of generally smaller proportions. To that extent the appearance of the building would be visually in keeping with other properties along the road frontage.
7. Notwithstanding my findings on the general design of the proposal the scale and depth of the main part of the building would be significantly greater than adjoining properties. The existing buildings incorporate rear projections which are subservient to and of much lesser scale than the appeal proposal. The Gosport Borough Council Design Guidance: Supplementary Planning Document 2014 (Design SPD) seeks to ensure that new development integrates well with its context and takes account of the grain of development that surrounds it. A gap would be maintained between the proposed building and the adjacent terrace to the east, which would provide some private garden space and landscaping. However, the overall site coverage of buildings, most particularly the depth and extent of the structure and the extent of car parking, would be significantly at odds with the scale and character of adjacent properties and those in the wider area along Leesland Road. This would lead to a cramped form of development which would be out of keeping with and harmful to the overriding character of the area.
8. The appellant has provided a comparative schedule of site areas for adjoining properties on Leesland Road and on St Faith's Close to the rear. However, these comparisons are made against the total site area including the very long 4 metre strip of land in between properties on both St Faiths Close/Tribe Road and which is intended as a communal garden for the occupiers of the development and which influences the comparative figures. I also note that the site is a larger area than that referred to in the land registry plan relating to the four bedroomed dwelling which stood on the site over 10 years ago. Even so these factors do not affect my findings in respect of the relationship and depth of the proposed building and its impact on the character of the area.
9. I note the appellants' concern that the planning officer report acknowledges that the site is within a mixed-use residential area and that there was a previous approval for flats. Moreover, that undercroft parking would not be

harmful to the street scene and that all these statements appear to indicate the proposal is acceptable. Nonetheless, that same report recommends refusal of the application for the reasons articulated in the Councils' decision notice and does not indicate that the Council was supportive of the development.

10. Taking all the above factors into account the proposal conflicts with: Policies LP10 and LP24 of the Gosport Borough Local Plan 2011-2029 (2015) (Local Plan); the Design SPD; and to the aims of the National Planning Policy Framework (the Framework). These policies, amongst other things, seek to ensure that development relates well to the context of the area and delivers high quality development.

Parking provision and Highway Safety

11. The appellant argues adequate provision has been made for vehicles in line with the standards set down by the Council in their document 'Parking: Supplementary Planning Document' (2014) (Parking SPD). Information has been provided by the appellant detailing the swept path of vehicles into each of the proposed parking spaces and showing that the spaces exceed the size requirements set down in the Parking SPD. They also highlight that as a visitor space has also been provided the scheme represents an enhancement in relation to the parking requirements. The Councils' concern is that the sizing of the vehicle shown in the swept paths falls below that of a family car and makes reference to the manual for streets (the MFS). The MFS refers to typical values whereas it also makes clear that assessments need to be on a site-specific basis. As the site constraints result in only millimetres of clearance for turning manoeuvres it is a significantly limiting factor.
12. From what I have read and seen the swept path information for at least two of the parking spaces would leave no margin for error for vehicle movements and there would be no overhang for vehicles when manoeuvring close to the building. Similarly, an excessive amount of movements would be needed for vehicles to move into and out of spaces which would, in all likelihood, impact on the amenities of residents. This would create risk between car and pedestrian movements particularly as the access way is less than 3 metres at its narrowest point.
13. The internal arrangements on the site would not increase the risk to safety onto the public highway other than the potential to force vehicles to reverse out of the site should the car spaces be full. The Council highlight that the local area has a significant problem with on-street parking availability which makes it essential for the site to make full provision in accordance with the Parking SPD.
14. These factors serve to demonstrate that whilst the requirements are technically possible, they are constrained by the proposed building and the boundary walls to the extent which would allow no margin for error for drivers. This would lead to unacceptable risks to residents and create the potential for damage to property.
15. The appellant states that the proposal exceeds the parking requirements previously approved under the 2011 consent and with the same number of

bedrooms¹ and improves the situation from the single space provided for the demolished property. However, the 2011 permission was for a smaller number of units and I have not been provided with the full details of the layout of that consent other than it relates to two flats with two parking spaces. I cannot therefore make a detailed comparison, To this effect it does not alter my findings.

16. With regard to the previous parking space evidence has been provided of a car parked on a hardstanding on the site. Though it is not clear when this photograph was taken from the current condition of the site it appears that it would be some considerable time ago. This evidence does not lead me to a different finding in respect of parking provision.
17. Consequently, the proposal would conflict with Policy LP23 of the Local Plan; to the Councils' Parking SPD and to the Framework. These together seek to ensure that adequate provision is made for an appropriate range of vehicles to access the site and manoeuvre within it in a safe and convenient manner.

Living Conditions

18. The appellant highlights that living conditions were absent from the previous reasons for refusal. I understand this reference refers to a withdrawn rather than a determined application. The Council advise that the side elevation of the earlier scheme incorporated a blank wall whereas this proposal contains several openings serving living rooms on the ground, first and second floor. The elevations appear to indicate that the lower edge of the rooflights would afford a view out. There is a window in the side elevation of the existing terrace and the proposed windows on both the east elevation and the south elevation would result in some overlooking into the garden of neighbouring properties either side. This would be to the detriment of the living conditions of the occupiers of those properties through a loss of privacy.
19. The appellant argues that there would be no more noise and disturbance associated with four one bedroomed flats than from two, two bedroomed flats. However, I disagree. The activity associated with four households, albeit with fewer bedrooms per unit, would be greater than for only two units. The impact on this rear space by way of comings and goings would have a greater capacity for noise generation in close proximity to the private rear amenity space of adjacent dwellings.
20. For these reasons the proposal would conflict with Policies LP10 and LP24 of the Local Plan and to the aims of the Framework. These policies seek to ensure that developments do not cause harm by reason of loss of privacy or from noise or other adverse impacts, including scale and massing, and advocates the refusal of development which fails to take opportunities to improve the character and quality of an area.
21. I have had regard to the appellants' comment that adjacent properties have permitted development rights which could conceivably result in additional windows overlooking adjacent properties should they be enlarged by that route. This may be so, though what is proposed here requires full permission

¹ 11/00382/FULL

and must be measured against adopted Local Plan policies. The two sets of circumstances are not therefore comparable.

Special Protection Areas

22. The appeal site lies within proximity to the Solent SPAs, which are protected sites designated under the Birds European Directive, as transposed in the UK by the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations), setting out a strict system of protection for European Sites and European Protected Species. Natural England has recently issued revised advice in respect of increased levels of nitrogen and phosphorous input to the water environment in the Solent, causing a dense growth of certain plants, otherwise known as eutrophication which affects the species using the Solent.
23. The appellant suggests that the former use of the site, the consent for two two-bedroom flats and the prior use of the site for a four bedroomed house should be taken into account. He argues these measures coupled with the use of efficient water meters in the development means that there would be no greater or detrimental impact upon nitrates than already committed from the site. However, at this time, and for a period of around 10 years there has been no water consumption on the site and no wastewater, nitrogen or phosphorous produced. Therefore, in any practicable sense there would be no reduction. In any event the development must be determined in relation to the current policies and circumstances and not by comparison to former uses or to approvals which I am not certain would be capable of proceeding.
24. The appellant has further stated that if deemed appropriate a reasonable financial contribution would be made to offset the impact and provide satisfactory mitigation. Whilst the recreational pressure could be mitigated, the Council clarify that in respect of the nutrient issue the precise mitigation has not yet been identified. Whilst the intention of the appellant to make a contribution is acknowledged any financial contribution would have to be made by a legal agreement. As I do not have any agreement before me I must make a decision without it. Therefore in the absence of evidence to the contrary, I conclude that the appeal scheme would be likely to have adverse effects on the integrity of the Solent SPAs, either alone or in combination with other plans and projects, as a result of recreational pressure and from harmful effects on water in the Solent from additional waste water generated by the development.
25. In these circumstances, I consider that I need to take a precautionary approach and that it would not be reasonable to seek to attach a condition when I am not satisfied that the mitigation strategy would be in place within the statutory time limit imposed on any permission. Likewise, in the event that dwellings would be built there would be no immediate prospect that they could be occupied with no mitigation in place and no method to secure it.
26. Consequently, the proposal would conflict with Policies LP42 and LP44 of the Gosport Local Plan, the Framework and statutory provisions and the Habitats Regulations. These seek to protect species and other features of Nature Conservation Importance and make clear that permission will not be granted on a site that would either directly or indirectly have an adverse impact on a protected species or its habitat unless an overriding need can be demonstrated.

Other Matters

27. The appellant may, or may not, be able to build out the 2011 consent. I have no definitive information on this matter either way although it did not appear at the time of my visit that any foundations had been laid which is contrary to the appellants evidence. I do not have full details of the earlier consent referred to, and even if I did, I am mindful that this proposal would be a substantially different development, involving a greater number of units and which, from the appellants evidence, clearly includes additional land over and above the earlier approval such that it is not a like for like comparison.
28. The appellant places emphasis on this being a brownfield, previously developed site which benefits from good transportation links and local facilities and which previously accommodated a dwelling which would have had an impact on parking. This may be so, however the previous use of the site as a single dwelling is not comparable with the development before me.
29. The appellant highlights that the proposal would provide low cost dwellings to meet the needs of the local area and which are in high demand. Whilst additional dwellings would be a benefit this does not, of itself, outweigh the harm which I have identified in relation to the main issues.
30. A land registry plan has been submitted in evidence however this is different to the site area defined by the red line. I note that no other owners were served notice at the time of the application and issues relating to landownership are a civil matter. As permission is being refused this does not have any bearing on the outcome.
31. The Council have referred in their evidence to a series of appeal decisions² in relation to issues relating to the SPA and nutrient issues, these are noted however are not determinative in relation to this appeal bearing in mind my findings.
32. The appellants draw attention to the fact that shared amenity space would be provided which will be of benefit and provide biodiversity enhancements. I am mindful that the Council do not take issue with the extent of the amenity space provided however as there is an expectation that amenity space will be provided with this type of housing it is not an especially notable benefit of the scheme. In respect of biodiversity on the site I have no detail to demonstrate how this might be improved though acknowledge that this matter could be subject to a condition should all other aspects of the development have proved acceptable.

Conclusion

33. Notwithstanding my positive findings in regard to the visual appearance of the proposal, for the reasons given and having taken into consideration all other matters raised, the appeal is dismissed.

Janet Wilson

INSPECTOR

² APP/X1735/W/18/3214079; APP/A1720/W/19/3221884; APP/A1720/W/3225866