



Appeal Decision

Site visit made on 22 June 2020

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2020

Appeal Ref: APP/L1765/W/19/3242873

Hazelwood, 29 Downside Road, Winchester SO22 5LT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Richard Wickins of Shorewood Homes against the decision of Winchester City Council.
 - The application Ref 19/02046/FUL, dated 18 September 2019, was refused by notice dated 12 November 2019.
 - The application sought planning permission for "Application Reference Number: 18/02454/FUL Date of Decision: 10/01/2019. Condition Number(s): Condition 2 (Approve Plans), Amend approved plans condition to reflect proposed changes to some elevations and repositioning of dwellings within the plot (AMENDED PLANS)" without complying with conditions attached to planning permission Ref 19/00922/FUL, dated 22 July 2019.
 - The conditions in dispute are Nos 2 and 3 which state that:
 - 2) The development hereby approved shall be constructed in accordance with the following plans: Drawing No: L1 Location Plan received 20.05.2019, Drawing No: D100 C Site Plan received 03.07.2019, Drawing No: D101 B Dwelling 1 Proposed Floor Plans received 25.04.2019, Drawing No: D110 B Dwelling 1 Proposed Elevations received 25.04.2019, Drawing No: D111 A Dwelling 1 Proposed Elevations received 25.04.2019, Drawing No: D112 A Proposed Car Port received 25.04.2019, Drawing No: D201 B Dwelling 2 Proposed Floor Plans received 25.04.2019, Drawing No: D210 B Dwelling 2 Proposed Elevations received 25.04.2019, Drawing No: D211 A Dwelling 2 Proposed Elevations received 25.04.2019, Drawing No: D301 A Dwelling 3 Proposed Floor Plans received 25.04.2019, Drawing No: D310 A Dwelling 3 Proposed Elevations received 25.04.2019, Drawing No: TSP-KC/DOWNSIDE/003 Rev C Tree Protection Plan received 20.05.2019, Drawing No: 518-0105 Planting Plan received 12.06.2019.
 - 3) The integral garage space in Plot 2 hereby permitted shall only be used for parking and ancillary storage purposes and for no other use at any time. The additional roofspace to be created in Plot 3 is to be used for ancillary storage purposes and for no other use at any time and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), no windows or dormers, other than those expressly authorised by this permission, shall be constructed in the roof of Plot 3 as permitted.
 - The reasons given for the conditions are:
 - 2) In the interests of proper planning and for the avoidance of doubt.
 - 3) To accord with the terms of the application and to ensure that the development remains compliant with Policy CP2 of Local Plan Part 1.
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Decision

1. The appeal is allowed and planning permission is granted for redevelopment of the site following the demolition of existing dwelling house at 29 Downside Road and the erection of 3no. dwellings with associated landscaping, and parking at Hazelwood, 29 Downside Road, Winchester SO22 5LT in accordance with the application Ref 19/02046/FUL, dated 18 September 2019, without compliance with condition numbers 2 and 3 previously imposed on planning permission Ref 19/00922/FUL, dated 22 July 2019 and subject to the conditions set out in the attached schedule.

Procedural Matters

2. Planning permission for this scheme was originally granted under reference 18/02454/FUL. The Council subsequently granted a minor material amendment under reference 19/00922/FUL. This revised the list of approved plans to reflect changes to elevations and repositioning of the dwellings within the plot.
3. The current application seeks to amend conditions within the latter permission to facilitate the replacement of one of the forecourt parking spaces for Plot 2 with a detached single garage, internal reconfiguration of Plot 2 to provide a ground floor study, minor amendment to doors on the front elevation of Plot 2 and minor reconfiguration to the internal layout of Plot 1.
4. At the time of my site inspection the reconfigured internal ground floor layout of Plot 2 was substantially complete, but no work had commenced on constructing the garage. Although some development has clearly taken place, it is not yet complete and therefore I have dealt with the appeal under s73 of the Act.
5. The description of development on the decision notice for 19/00922/FUL and set out in quotation marks in the banner heading above refers to amendments to an earlier permission and is not an act of development. My formal decision uses the description of development taken from the original permission.
6. The appellant has requested that I consider the appeal against updated drawings that reflect the elevational amendments and roof detailing changes that have been made to the scheme during construction. Individually, some of the amendments are minor, but cumulatively they are material. The absence of any public consultation means that interested parties would be prejudiced were I to accept the plans as part of the appeal. My determination of this appeal is therefore made on the basis of the plans submitted with the application.

Application for costs

7. An application for full costs was made by Mr Richard Wickins of Shorewood Homes against Winchester City Council. This application is the subject of a separate decision.

Main Issues

8. The Council does not raise any concerns regarding the change to the internal configuration of Plot 1, or the amendment to doors on the front elevation of Plot 2. I have no reason to take a different view on these elements of the application. The main issues in dispute are:

- a) the effect of the proposed garage for Plot 2 on the character and appearance of the area; and
- b) whether disputed condition 3 is reasonable and necessary to ensure that the development maintains a satisfactory mix of dwelling sizes, having regard to the requirements of the development plan in this regard.

Reasons

Character and appearance

- 9. Downside Road is a quiet, leafy residential cul-de-sac comprising individually designed detached houses set within spacious gardens. The development of 3 detached dwellings on the former site of Hazelwood departs from this prevailing character as a result of its higher density. However, this is not noticeable from the public realm due to the development's location behind the street frontage at the end of a long driveway running between Nos 27 and 35 Downside Road.
- 10. The proposed garage would be situated in front of the dwelling on Plot 2, in the position of one of the parking spaces shown on the approved plans. This part of the site is presently open to facilitate construction operations, but the plans indicate that it will eventually be subdivided using walls to create separate enclosed parking areas for Plots 1 and 2.
- 11. The Council is principally concerned that the garage would appear cramped and poorly integrated into the site. It draws my attention to the High Quality Places Supplementary Planning Document (SPD) which states that the design of any garages needs to be high quality and respond positively to the context and the design of the other buildings within the development. The SPD stipulates that garages should not be excessively large or overly prominent. It gives the example that garages should not be in front of the dwellings and should not dominate the entrance to a development or become a focal point at the end of a vista. Although an important material consideration to be taken into account, the SPD constitutes guidance and as such it is not determinative. Each proposal needs to be considered on its own merits.
- 12. In this particular case, the Council has already accepted a detached double garage forward of Plot 1. The proposed single garage for Plot 2 would be considerably smaller and its scale and mass would be subservient to the parent dwelling. The position of the garage within the development would ensure that it does not become a focal point on the approach from Downside Road and, although visible on entering the site, the built form would be softened by landscaping which includes a tree. The use of high quality matching materials would help to integrate the building into the scheme.
- 13. The proposed garage would be set within the context of a housing scheme with its own distinctive identity and it would not disrupt an established pattern of development. I conclude that the siting and design of the garage would cause no harm to the character and appearance of the area; the building would be an acceptable addition to the development as a whole. There would be no conflict with Policy CP13 of Winchester District Local Plan Part 1 – Joint Core Strategy (2013) (LPP1) or Policies DM16 and DM17 of Winchester District Local Plan Part 2 – Development Management and Site Allocations (2017) (LPP2), insofar as these seek high quality design which responds positively to the local context.

Dwelling mix

14. The approved scheme comprises a 4-bed dwelling, 3-bed dwelling and 2-bed dwelling. This housing mix accords with the requirement in LPP1 Policy CP2 that a majority of homes should be in the form of 2 and 3 bed houses. The Council is concerned that the reconfiguration of the integral garage in Plot 2 as internal living accommodation would create the potential for the unit to become a 4-bed home. If this situation were to come about then the scheme would no longer reflect the housing mix sought by Policy CP2.
15. Paragraph 7.16 of the supporting text provides relevant background to Policy CP2. It explains that the Council's aim is to create a flexible dwelling stock that helps to meet a wide range of needs, including homes most able to meet the requirements of a broad cross section of the population, most particularly 2 and 3 bedroom houses. It is estimated that overall around 65% of new demand will be for 2 and 3 bed homes, to cater for small families, newly forming households and people looking to downsize.
16. Plot 2 will be a well-proportioned and generous family home with 3 bedrooms, 2 of which are en-suite, and his/her dressing rooms for the master bedroom. Downstairs the plans show an open plan kitchen, dining and family room, together with a separate drawing room. The area shown in the approved scheme as an integral garage has been subdivided to create a WC, utility room and study. The latter is large enough to be reconfigured as a bedroom, but this strikes me as unlikely given that the glazed bifold doors provide limited privacy to this ground floor room in a prominent location at the front of the house.
17. If the Council's argument were to be followed through to its logical conclusion, 3 bedroom homes in developments that are close to the housing mix threshold should not be permitted to include a study, just in case these are subsequently used as bedrooms. This position has no rational basis. There is a rising trend, if not a requirement in some cases, for people to work from home and this makes a dedicated study attractive to many purchasers.
18. The appellant draws my attention to the fact that Plot 1 contains a study and has also supplied details of other approved residential developments in Winchester where studies are shown on the floor plans. It is clearly an arrangement that the Council has accepted elsewhere, including on schemes that are close to the policy threshold for the number of 2 and 3 bed homes.
19. I note that there are no maximum limits on the size of 2 and 3 bedroom homes. Such an approach was originally proposed by the Council but rejected by the examining Inspector for LPP2 as having no evidential justification. It is apparent that in recommending main modifications the Inspector considered the possibility of internal subdivision to create additional bedrooms.
20. The above lends significant weight to the appellant's case that there is no policy basis for seeking to control the number of reception rooms within a dwelling. I have no doubt that there is a market for new build properties to include additional ground floor reception rooms which improve the accommodation.
21. Even if I were to accept the Council's proposition that the integral garage should be retained for the purposes of parking and ancillary storage, there would be nothing to prevent other ground floor accommodation – the drawing room being the obvious example – from being converted to a bedroom. In

practice, the ground floor reception rooms could be used for any number of purposes dependent upon the needs of the occupier – for example it is not uncommon for families with children to have a dedicated playroom. This flexibility is already built into the extant planning permission.

22. LPP1 Policy CP2 stipulates that new residential development should meet a range of community housing needs and deliver a wide choice of homes. Amongst other things, it stipulates that development should provide a range of dwelling types, tenures and sizes. Plot 2 in its amended form would continue to be a 3-bed home, albeit with enhanced ground floor accommodation. It would make a positive contribution to the choice of housing and the flexibility of the dwelling stock, both on the development itself and within the City. I therefore conclude that condition 3 fails the tests of necessity and reasonableness set out within the National Planning Policy Framework and Planning Practice Guidance.

Other Matters

23. Winchester City Council's Residential Parking Standards Supplementary Planning Document (2009) requires 3 bedroom dwellings to provide 2 car parking spaces per dwelling. The approved scheme provides 2 external parking spaces and 1 space within the integral garage. The loss of the garage would not compromise the parking requirements for the development.
24. The Council's statement of case refers to limited manoeuvring space for vehicles on the driveway. However, the submitted tracking plans demonstrate that there is adequate room for a car to enter and exit the garage and parking space in forward gear. Based on the information before me, there are no highway grounds to dismiss the appeal.
25. I note the speculation amongst local residents regarding the developer's motives. However, the planning history of the site and the fact that permission has not always been granted in advance of works being undertaken does not affect my consideration of the appeal which must be decided on its substantive planning merits, based on the plans submitted and the evidence presented by the parties.

Conditions

26. The Planning Practice Guidance explains that decision notices for the grant of planning permission under s73 should also restate the conditions imposed on earlier permissions that continue to have effect. The Council has helpfully provided a list of suggested conditions which it considers are still relevant, with the wording amended as necessary to reflect any changes in circumstances.
27. In addition to the standard commencement condition (which will be relevant to the new detached garage for Plot 2), conditions are necessary to ensure that development does not cause harm to ecology or trees on the site. To protect the character and appearance of the area conditions are also required to stipulate that the materials for the new garage shall match the dwelling, and to specify that the landscaping is carried out in accordance with the approved details. The Council's suggested conditions in relation to energy and water efficiency and the removal of permitted development rights are justified.
28. In the interests of certainty, I have attached a condition listing the revised plans, which for the reasons set out above, are not the amended plans submitted by the appellant as part of the appeal.

29. I have amended condition 3 to delete reference to the use of the integral garage for Plot 2 and have applied the suggested wording to ensure that the new detached garage is only used for the purposes of parking and ancillary storage. This is in the interests of ensuring satisfactory parking provision.
30. The appellant has offered an additional condition to require obscured glazing in the first floor window in the south elevation of Plot 2. Such a condition is reasonable and necessary in the interests of protecting the privacy of the occupiers of 33 Downside Road and I have imposed it accordingly.
31. The Council has not suggested that a condition to control external lighting condition be reimposed. However, such a condition is necessary to prevent harm to the appearance of the area and protected species. I have therefore used the form of wording from the original permission.

Conclusion

32. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should succeed.

Robert Parker

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby approved shall be constructed in accordance with the following plans:
 - Drawing No: L1 Location Plan
 - Drawing No: D100 C Site Plan
 - Drawing No: D101 C Dwelling 1 Proposed Floor Plans
 - Drawing No: D110 B Dwelling 1 Proposed Elevations
 - Drawing No: D111 A Dwelling 1 Proposed Elevations
 - Drawing No: D112 A Proposed Car Port
 - Drawing No: D201 C Dwelling 2 Proposed Floor Plans
 - Drawing No: D210 C Dwelling 2 Proposed Elevations
 - Drawing No: D211 B Dwelling 2 Proposed Elevations
 - Drawing No: D212 Proposed garage plans and elevations
 - Drawing No: D301 A Dwelling 3 Proposed Floor Plans
 - Drawing No: D310 A Dwelling 3 Proposed Elevations
 - Drawing No: TSP-KC/DOWNSIDE/003 Rev C Tree Protection Plan
- 3) The detached garage in Plot 2 hereby permitted shall only be used for parking and ancillary storage purposes and for no other use at any time. The additional roofspace to be created in Plot 3 is to be used for ancillary storage purposes and for no other use at any time and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), no windows or dormers, other than those expressly authorised by this permission, shall be constructed in the roof of Plot 3 as permitted.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development permitted by Classes A, B, and C of Part 1 of Schedule 2 of the Order, shall be carried out without the prior written consent of the Local Planning Authority.
- 5) Any deviation from works prescribed or methods agreed in accordance with the Arboricultural Impact Appraisal and Method Statement Ref: AIA/AMS-KC/SH/DOWNSIDE/003 Revision B dated May 2019 and the Addendum to the Arboricultural Impact Appraisal and Method Statement and AIA/AMS-KC/SH/DOWNSIDE2/003/ADDENDUM received 19.09.2019 shall be agreed in writing by the Local Planning Authority.
- 6) All hard and soft landscape works shall be carried out in accordance with drawing number 518 – 0105 Planting Plan dated April 2019. The works shall be carried out before the use hereby permitted is commenced and prior to the completion of the development or in accordance with the programme agreed with the Local Planning Authority. If within a period of five years after planting any tree or plant is removed, dies or becomes, in the opinion of the Local Planning Authority, seriously damaged, defective or diseased another tree or plant of the same species and size as that originally approved shall be planted at the same place, within the next planting season, unless the Local Planning Authority gives its written consent to any variation.

- 7) The materials to be used in the construction of the external surfaces of the detached garage for Plot 2 shall match in colour and texture those used in the construction of the dwelling.
- 8) Prior to the occupation of the dwelling hereby permitted detailed information (in the form, of SAP "as built" stage data and a BRE water calculator) demonstrating that all homes meet equivalent to the Code 4 standard for energy and water (as defined by ENE1 and WAT 1 in the Code for Sustainable Homes) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be occupied in accordance with these findings.
- 9) The recommendations within section 5 of the Ecological Assessment (Peach Ecology, 17 September 2019) shall be adhered to throughout the construction period and the enhancement provisions and planting shall be sited prior to the development coming into its intended use and retained thereafter.
- 10) Details of any external lighting of the site shall be submitted to and approved in writing by the Local Planning Authority prior to its first installation. The lighting scheme should be in accordance with Guidance Note 08/18 produced by the Bat Conservation Trust and Institute of Lighting Professionals. This information shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles and luminaire profiles). The lighting shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.
- 11) The dwelling on Plot 2 shall not be occupied until the first floor window in the south elevation of that dwelling has been fitted with obscured glazing. Details of the type of obscured glazing shall be submitted to and approved in writing by the Local Planning Authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

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