
Appeal Decision

Site visit made on 11 August 2020

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 September 2020

Appeal Ref: APP/B1740/W/20/3252521

129 Manor Road, Ashley, New Milton BH25 5EQ

- 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 A Addis (Addis Homes Ltd) against the decision of New Forest District Council.
 - The application Ref 20/10047, dated 20 January 2020, was refused by notice dated 16 March 2020.
 - The development proposed is erection of dwelling and alterations to parking arrangements.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. On 6 July 2020, since the refusal of the planning application and the submission of the current appeal, the Council adopted the *Local Plan 2016-2036 Part 1: Planning Strategy* (LP). The Council has confirmed that Policy CS2 of the *Core Strategy for the New Forest District Outside the National Park (2009)* (CS) has been superseded by LP Policy ENV3. This policy, which relates to design quality and local distinctiveness, is consistent with the approach of the replaced CS policy. Accordingly, I have determined the appeal having regard to the recently adopted LP policies.
3. The Council has drawn my attention to Policy NM4 of the emerging *New Milton Neighbourhood Plan* (NP), which was not included in the reason for refusal. The Council has confirmed that the NP has been through the public consultation process and is currently awaiting a date for the referendum, which is anticipated to take place in 2021. Given the advanced stage of preparation reached, I afford significant weight to emerging Policy NM4 which supports the design quality and residential amenity objectives of Local Plan Policy ENV3.
4. The Council has confirmed that the second reason for refusal has been adequately addressed, following the submission of a Unilateral Undertaking and financial contribution in accordance with the Council's *Mitigation Strategy for European Sites Supplementary Planning Document 2014* (the Mitigation Strategy), to address the recreational impacts of the proposal on the New Forest Special Area of Conservation, the New Forest Special Protection Area, the New Forest Ramsar site, the Solent and Southampton Water Special Protection Area, the Solent and Southampton Water Ramsar site, and the

Solent Maritime Special Area of Conservation (the European sites). This is a matter I shall return to later in my decision.

Main Issues

5. The main issues are:

- The effect of the proposed development on the character and appearance of the area; and
- The effect of the proposed development on the living conditions of future occupiers of the proposal and the host property, with particular reference to private external garden space.

Reasons

Character and Appearance

6. The appeal site is occupied by a detached two storey house with a large detached outbuilding to the side. The rectangular-shaped plot is wide and shallow, so that the majority of the private garden area is located to the side of the house, enclosed from the street by close-boarded fencing/access gates. The proposal would replace the outbuilding with a detached two storey house which would front onto Manor Road, being sited adjacent to no.129. A shared vehicular access would serve frontage parking spaces for both houses.
7. The site lies in an established residential area comprising predominantly detached and semi-detached dwellings set in spacious plots. The *New Milton Local Distinctiveness Supplementary Planning Document 2010* (NMLDSPD) identifies the host property as a key building within Character Area 4 – Ashley, and includes “generous rear gardens” within the defining characteristics of the character area. Whilst, in the case of the appeal site, the largest part of the garden lies to the side of the dwelling, it is nonetheless comparable in size to other gardens within the site vicinity and contributes to providing a spacious setting for the host property and a low density of built development which is in keeping with that of the locality.
8. The appeal scheme would result in two plots which would be considerably smaller than those of the surrounding residential area and would be out of keeping with the prevailing density of development. The new dwelling and the host property would both be positioned in close proximity to both sides and rear boundaries of their respective sites. Buildings, parking and access drive areas would take up a considerable percentage of the plots, with a comparatively small amount of land to be provided as landscaped garden. The result would be a cramped form of built development which overly intensifies the quantity of built form both on the new plot and for the remaining host property site. The resulting two dwellings would not be provided with the spaciousness of setting that is characteristic of the area.
9. Whilst the depths of the rear gardens within the site vicinity and limited depth of the new plot may not be widely perceived within the street scene, nevertheless, the resulting scheme would be viewed as an overly intensive form of development which would exceed the capabilities of the existing plot to comfortably accommodate an additional dwelling.

10. Although there are other properties within the site locality which are situated in close proximity to their side boundaries, these differ from the circumstances of the appeal scheme where the new dwelling and host property would be positioned close to all of their site boundaries, including the rear.
11. I have noted that the proposal represents an amended scheme from that refused under planning application Ref 17/11063. Whilst the changes to the scheme have been noted, including alterations to the design and siting of the new dwelling, this does not alter my findings with respect to the current proposal.
12. For the above reasons, I therefore conclude that the proposal would harm the character and appearance of the area. As such, the development would be contrary to LP Policy ENV13 and NP emerging Policy NM4, which amongst other things, seek to ensure that new developments achieve high quality design that contribute positively to local distinctiveness and are sympathetic to the environment and their context in terms of layout and density. For similar reasons, the proposal would also be contrary to chapter 12 of the *National Planning Policy Framework 2019* (the Framework) which seeks to ensure high quality design.

Living conditions

13. The new and host dwellings would each be provided with private rear external garden areas to the rear. In addition, the host property, the larger of the houses, would have an area of enclosed, private garden space to the front of the building. The Council has not directed me to any adopted development plan policies in respect of minimum garden size standards. I find that the proposed external private garden space for each property would be sufficiently large to provide for the typical requirements associated with outdoor play space, sitting out, outdoor dining and drying washing, that could reasonably be expected to be required in association with dwellings of the sizes proposed.
14. For the above reasons, I therefore conclude that the proposal would provide satisfactory living conditions for future occupiers of the proposal and the host property, having regard to the provision of private external garden space. As such, the development would accord with LP Policy ENV13 and NP emerging Policy NM4, in so far as these policies seek to ensure that new development avoids unacceptable effects on residential amenity. This is generally consistent with the Policies of the Framework which seek to ensure that developments will function well and promote a high standard of amenity, health and well-being for existing and future users (paragraph 127)

Other Matters

15. A scheme of mitigation is required to mitigate against potential harm to the New Forest and Solent Coast European sites, arising from increased recreational usage associated with new residential development. The Council has carried out its own previous Appropriate Assessment, concluding that the adverse impacts would be avoided if appropriate mitigation is secured in accordance with the Council's Mitigation Strategy prior to the grant of permission. This requires a financial contribution for every net new dwelling to mitigate the increased recreation pressure resulting from the development. The appellant has provided a signed and dated Unilateral Undertaking that secures such payment, and the Council has confirmed that this secures an appropriate

level of mitigation for the proposed development and is satisfied that this issue has been satisfactorily addressed.

16. There is also a requirement for new residential development to achieve 'nutrient neutrality' to avoid the potential harmful impacts on water quality of the Solent European designated sites arising from high levels of nitrogen and phosphorus input causing eutrophication. The Council has confirmed that there is currently no agreed nitrate mitigation solution, and has suggested that this matter can be dealt with by means of a Grampian condition. This would require mitigation measures to be approved and implemented prior to the occupation of the dwelling. This approach has been agreed by the appellant.
17. If I were mindful to allow the appeal, as the competent authority, I would need to undertake an Appropriate Assessment of the implications of the appeal scheme for the European sites. As matters stand, detailed nitrate mitigation proposals are not in place as part of this appeal to directly address all of the likely significant effects upon the European sites, and the full details and implications of such mitigation proposals remain unknown. The appeal scheme, in the absence of satisfactory mitigation and the necessary mechanism for achieving it, would have an adverse effect upon the integrity of the European sites.
18. However, since I find the proposed development to be unacceptable in respect of the impact on the character and appearance of the area, the outcome of any such Appropriate Assessment would have no bearing on the aforementioned harm I have already identified, and, in turn, on the overall outcome of this appeal. Therefore, I need not take this matter further at this time.
19. The appellant has drawn my attention to the only recent ability of the Council to demonstrate a five-year housing land supply, following adoption of the LP on 6 July 2020, and the fact that the figure for the period 2020/21 – 2024/25 is only 5.1 years. The appellant also refers to the Housing Delivery Test (HDT) results.
20. The most recent HDT results for New Forest District Council show that the number of dwellings delivered over the last three years is below the total number of homes required (43%). The implementation arrangements, which are set out in Annex 1 of the Framework, explain what constitutes delivery substantially below the housing requirement. For the HDT results published in November 2019¹, footnote 7 of the Framework applies where delivery was below 45% of the housing required over the previous 3 years.
21. As such, in accordance with paragraph 11d) of the Framework, planning permission should be granted unless: i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusal; or ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
22. In the case of the appeal scheme, exemption i) applies, since the development requires an appropriate assessment because of its potential impact on habitats sites. As such, in accordance with paragraph 177 of the Framework, the presumption in favour of sustainable development does not apply.

¹ Which were published in February 2020

23. Paragraph 8 of the Framework defines the three dimensions of sustainable development as performing economic, social and environmental objectives. When judged against some of the core planning principles of the Framework, the appeal proposal would perform well in that it would be in an urban area where access to facilities is likely to be greatest.
24. In terms of its component dimensions, there would be a small social benefit in providing an additional dwelling. Economic advantages would also arise from the construction and occupation of the new house. However, protecting and enhancing the natural and built environment is also a key aspect of sustainable development. The harm I have identified to the character and appearance of the area would be more significant in its scale. As a result, the environmental role of sustainable development would not be achieved. Accordingly, even if the tilted balance were not to be disapplied by the habitat conflict with the Framework, such that adequate mitigation were to be provided, I still find that, when assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits.
25. The appeal proposal is in conflict with the development plan taken as a whole and material considerations do not indicate a decision otherwise than in accordance with its terms.

Conclusion

26. For the reasons given above, I conclude that the appeal should be dismissed.

S Leonard

INSPECTOR