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# Appeal Decision

Site visit made on 15 September 2020

**by Helen O'Connor LLB MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 September 2020**

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**Appeal Ref: APP/B1740/D/19/3242817**

**1 Westfield Road, Lymington SO41 3PZ**

- 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 and Mrs Baker against the decision of New Forest District Council.
  - The application Ref 19/11197, dated 20 September 2019, was refused by notice dated 15 November 2019.
  - The development proposed is a first floor extension.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. Since the Council made its decision the New Forest District Local Plan 2016-2036, Part 1 Planning Strategy, July 2020 (LP) has been adopted. Accordingly, the New Forest District Council Local Development Framework, Core Strategy October 2009 (CS) as referred to in the reasons for refusal no longer forms part of the development plan. Policy ENV3 – Design quality and local distinctiveness replaces policy CS2 – Design quality of the CS and covers broadly similar territory to the superseded policy. So far as is relevant to the appeal proposal, the policies are not fundamentally different. Both parties have been given the opportunity to comment on the change in policy circumstances. Therefore, I am satisfied that neither party would be prejudiced by my consideration of the LP.

## Main Issues

3. The main issues are the effect of the proposal on (i) the character and appearance of the area and (ii) the living conditions of nearby residents having particular regards to outlook and noise arising from the use of the proposed balcony.

## Reasons

### *Character and appearance*

4. Westfield Road comprises predominantly two storey conventionally built residential dwellings. There is some variety in the housing along the road. Nevertheless, coherence is derived from the regular set back and spacing between dwellings or pairs of dwellings. Furthermore, the presence of traditional gable fronted dwellings utilising relatively simple pitched roof forms

- near to the appeal site adds to the local distinctiveness of the area. The adjacent property at 3 Westfield Road is one such example. These factors give the street a pleasant and distinctive residential character and appearance.
5. The appeal property is a modest single storey dwelling. Its uncompromising contemporary clean lines, materials, reduced height and flat roof, enclosure by, and proximity to, other buildings make it a visual anomaly in the street. Indeed, the appellants describe the existing dwelling as being at odds with the immediate setting<sup>1</sup>. Nevertheless, its impact is significantly tempered by its limited scale. As a result, the sharp visual contrast adds interest to the road rather than harmfully detracting from the prevailing character and appearance.
  6. The proposal would introduce a first floor extension to provide an additional bedroom over part of the flat roof which is presently used as a roof garden. Although the full width glazed balustrade would be in keeping with the contemporary horizontal lines of the dwelling, the more conventional half hipped structure in white render and slate would not, and consequently, would dilute the strong contrast with the surrounding buildings.
  7. Neither would the additional built form successfully take cues from the proportions, ridge height or roof pitch of No.3. Moreover, due to its proximity to No.3, Mariners Cottage and Beagleys Cottage, only limited spacing would be retained between the proposal and other built form at first floor. The additional volume, more complex roof form and close spacing would be cramped and bulky by comparison to the majority of nearby residential development. Consequently, it would appear as a disjointed and incongruous addition that would be harmful to the character and appearance of the street.
  8. Furthermore, due to its proposed height and proximity to the street, the first floor addition would be evident from Westfield Road and its conjunction with Brook Road and Spring Road. Therefore, its prominence in the street would exacerbate the harmful impact.
  9. This is reinforced by guidance in the Lymington Local Distinctiveness Supplementary Planning Document, February 2011 (SPD) within which the appeal site is located in Character Area 5, Waterford and Westfield. The SPD acknowledges that the variety of styles and materials in the area adds richness and distinction. Nevertheless, it reinforces that where so many of the area's buildings are designed to stand alone, infilling that loses the spatial setting is a particular threat to the quality that each dwelling contributes to the overall character. It goes on to state that gaps are very important in much of the area, even where they are smaller<sup>2</sup>.
  10. It follows that, for the reasons outlined, the proposal would not successfully 'complete' the frontage to Westfield Road as is asserted by the appellants, rather it would detrimentally erode the spacing between the neighbouring buildings that form part of the intrinsic qualities of the area. Reference is made to the proposal screening the rear wing of Beagleys Cottage. However, given its separation from Westfield Road, it is not shown that this subordinate part of Beagleys Cottage is particularly prominent nor aesthetically objectionable.

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<sup>1</sup> Paragraph 2.20, Appellants' Ground for Appeal

<sup>2</sup> Pages 89-90, Waterford and Westfield Character Area Guidance.

Therefore, this would not provide a sound basis to justify a development that would be more prominent and visually harmful.

11. It is highlighted that the appeal site is not located within a conservation area. Be that as it may, it does not follow that it does not possess qualities that are worthy of protection. Paragraph 127 of the National Planning Policy Framework (the Framework) states, amongst other matters, that planning decisions should ensure that developments are visually attractive as a result of good architecture and are sympathetic to local character and history, including the surrounding built environment. For the reasons already stated, the proposal would fail to do this.
12. Reference is made to the presence of other balconies at properties within Westfield Road. However, the proposed balcony does not represent the entirety of the development. Moreover, the examples given in the Design, Access and Planning Statement<sup>3</sup> pertain to markedly different scales and style of house than the proposal before me. Therefore, they are of limited weight. In any event, I have determined the proposal on its own merits.
13. General reference is made to recent alterations to permitted development rights granted by the Town and Country Planning (General Permitted Development) Order 2015 (as amended) whereby in some circumstances additional storeys may be added to dwellings. Nevertheless, it is not shown that the proposal would be covered by the changes. As such, the existence of permitted development in other circumstances carries little weight when assessing the impact of the proposal against local and national planning policy.
14. Accordingly, I find that the development would have a harmful effect on the character and appearance of the area as it would fail to be sympathetic to its context in terms of its appearance and its relationship to adjoining buildings. Therefore, it would conflict with policy ENV3 of the LP which, amongst other things, requires development to achieve a high quality design that contributes positively to local distinctiveness and enhances the character and identity of the locality.

#### *Living conditions*

15. Policy ENV3 of the LP, amongst other things, also requires new development to avoid unacceptable effects by reason of visual intrusion or overbearing impact, overlooking, shading, noise and light pollution or other adverse impacts on local character or residential amenity.
16. At present four windows serving other residences face onto the roof garden at the appeal site<sup>4</sup>. Three belong to 3 Westfield Road and serve a bathroom, landing area and study/bedroom, the final window serves a bedroom at Beagleys Cottage.
17. The proposal would introduce solid built form close to these windows. Given that the bathroom and landing windows at No.3 do not serve principal rooms and that the bathroom window is obscure glazed, the resulting relationship with these particular windows would be acceptable. However, the scale and proximity of the structure would dominate the majority of the outlook from the bedroom windows at both neighbouring premises. Even though the bedrooms

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<sup>3</sup> Page 4

<sup>4</sup> Existing plans and elevations, drawing no.TBD/18/1121/02 Rev 0

in question are also served by other windows, which mitigates the degree of harm to an extent, the magnitude of the impact on the outlook of these windows serving habitable rooms would nevertheless be significant. Consequently, it would have an unacceptably confining effect on the occupants of those rooms thereby diminishing the quality of the living conditions for the occupants of 3 Westfield Road and Beagleys Cottage.

18. My attention is drawn to the presence of existing planters and fences close to the windows of adjacent premises which the appellant considers currently curtails the outlook of the windows. Be that as it may, the combination of the increased height, permanence and solid nature of the proposed structure would result in a greater enclosing impact upon the bedroom windows. Therefore, the presence of planters and slatted fencing is not directly comparable and carries limited weight. Accordingly, with regards to outlook, the proposal would fail to create a place with a high standard of amenity for existing and future users as stipulated by paragraph 127 f) of the Framework.
19. The Council also raises concerns that the use of the proposed balcony would generate additional activity and noise that would disturb adjoining neighbours and would be harmful to privacy. However, there is no dispute between the parties that the roof area of the appeal premises constitutes a roof garden. This presently provides a larger area than the proposed balcony. Moreover, the proximity and direct relationship to the windows in the adjacent dwellings means that the privacy of both the users of the roof garden and the adjacent dwellings is currently markedly compromised. My observations were that the placement of the moveable planters and fencing does not fully address the impact.
20. By comparison to the existing situation, the limited floor area of the balcony would be likely to limit areas of activity. Furthermore, its position would be further away from the windows of the adjacent properties and closer to the road. It follows that these factors would be likely to reduce the level of noise and disturbance to the adjacent residents.
21. Moreover, the greater separation distance, oblique angle and proposed opaque glass screen would curtail the existing inter-visibility with the bedroom window at 3 Westfield Road. The approximately 1.3m high opaque screen would effectively prevent views to the bedroom window from people when sitting on the balcony, albeit that it would not exclude views altogether. Nevertheless, in relation to the potential for privacy and disturbance to the adjoining dwellings, the proposal would represent an improvement over the relationship with the roof garden. This is reinforced by the representations received from the occupants of 3 Westfield Road and Beagleys Cottage.
22. It is the appellants' view that the reduction in overlooking and disturbance to adjoining neighbours derived from the removal of the roof garden would outweigh any harm to outlook. However, whilst the reduction of harm to privacy and disturbance does weigh in favour of the proposal, it would not remove these impacts altogether. Therefore, I am not persuaded that a reduction of an existing harm would justify its substitution with harm to outlook of a greater magnitude. In reaching this view, I have taken account of the comments in support made by the occupants of No.3 and Beagleys Cottage. Nevertheless, I am required to form my own judgement, considering the entirety of the evidence, including my observations of the site.

23. Accordingly, I find that the proposal would cause unacceptable harm to the living conditions of the adjacent occupiers at 3 Westfield Road and Beagleys Cottage due to the detrimental impact on their outlook. This would be contrary to policy ENV3 of the LP and the Framework.

**Conclusion**

24. For the reasons given above, the appeal is dismissed.

*Helen O'Connor*

Inspector