



Appeal Decision

Site visit made on 24 February 2021

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 25 March 2021

Appeal Ref: APP/W1715/D/20/3264972

Waters Edge, Lands End Road, Bursledon SO31 8DN

- 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 David and Annette Mead against the decision of Eastleigh Borough Council.
 - The application Ref: H/20/88346 dated 22 July 2020, was refused by notice dated 4 November 2020.
 - The development proposed is addition of 3rd floor viewing room and remodelling of existing house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has proposed a number of conditions in the event that planning permission is granted, including in relation to the submission of a preliminary ecological assessment prior to works commencing. No such assessment had been submitted with the application. Paragraph 99 of Circular 06/2005 states that the presence or otherwise of protected species, and the extent that they may be affected by the development, should be established before planning permission is granted. It advises that surveys should be carried out before any permission is granted and that the need for a survey should only be required by condition in exceptional circumstances. I therefore invited comments from both the Appellants and the Council at the appeal stage to the proposed condition, in the event of planning permission being granted, and have taken the comments from both parties into account.
3. I have, as a result and necessarily, added this matter as a further main issue.

Main Issues

4. The main issues in this appeal are:
 - a) The effect of the proposal on the character and appearance of the Old Bursledon Conservation Area; and
 - b) The effect of the proposal on the living conditions of the neighbours at the adjoining property, Tara, with particular regard to overlooking and loss of privacy.
 - c) The effects of the proposal on interests of ecological importance.

Reasons

Issue a) Character and Appearance

5. The appeal property is a detached property on a site which slopes steeply towards the western shore of the River Hamble, immediately beyond the garden. Because of the steeply sloping site, the property appears as single storey from the roadside (Lands End Road) and two storeys at the rear, under a shallow pitched roof. It appears to have been altered and extended a number of times. The land also slopes from north-west to south-east as Lands End Road descends to the water's edge. The site is situated within the Old Bursledon Special Policy Area and the Old Bursledon Conservation Area.
6. Section 72 (1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
7. The proposal would remodel the existing dwelling, removing the existing shallow pitched roof and introducing an upper storey with a flat roof which would be inset from the sides of the existing property. There would be an overhaul of the existing fenestration and materials. The external elevations of each storey would use different materials with the darker and 'heavier' materials at the base of the building which would assist in the stepping down of the building towards the water's edge.
8. The designated heritage asset of the Conservation Area extends to include the scattered attractive village of Bursledon as well as the River Hamble and the foreshore with its slipways and mud flats. There are a variety of plot sizes throughout the Conservation Area and whilst traditional brick houses with pitched roofs are a recurring feature, this is not exemplified in the group of properties including the appeal property and its immediate neighbours.
9. The existing group of buildings on the riverside side of Lane Ends Road are each very individual in their design style, scale and siting so that there is, in my view, no common theme. The buildings are very visible from views from the river and the opposite bank. The group of buildings further to the north-west include three listed buildings, including Myrtle Cottage, The Jolly Sailor PH and Ewers. Including the appeal property, there are then four further buildings of very individual design, set in their own plots of land, fronting the river.
10. I consider that the proposed remodelling would be a positive enhancement of the dwelling; as existing, it appears to have been extended a number of times and the proposal would draw all the elements together to create an attractive, clean and unified composition. The additional storey with its set back from the sides would be modest in scale and the existing horizontal emphasis retained by the clear banding of materials and colour, with the 'heavier' colours and materials towards the base of the building. Furthermore, were no other matters of concern and planning permission were to be granted, a condition could be imposed to control the precise details of the proposed materials. I consider that the proposed scale, detailed design and materials would combine to provide an attractive building which would not appear overly large in scale or height in relation to the size of the plot or neighbouring buildings.
11. As existing, the adjoining property, Tara, with its steeply pitched roof appears higher than the appeal property, although it is sited at a lower level when

approached from along the road. The proposed changes to the appeal property would increase the height of the appeal property to a modest extent, but it would in my view improve the relationship between the appeal property and the neighbouring property, Tara and the rhythm of development along the road. Given the individual forms and styles of each of the properties along this part of Lands End Road, I do not consider that the contemporary design of the remodelled and extended dwelling would appear out of place or harm the street scene or the character and appearance of the designated heritage asset.

12. I therefore conclude that the proposal would be well designed to secure a positive enhancement to the character and appearance of the existing building and would preserve the character and appearance of the Old Bursledon Conservation Area and Special Policy Area. It would therefore accord with Policies 59.BE, 169.LB, 179.LB and 9.CO from the Eastleigh Borough Local Plan Review 2001- 2011 (Local Plan Review); guidance from the Old Bursledon Conservation Area Appraisal and Management Proposals Supplementary Planning Document; and Policies DM1, DM12, DM28 and BU9 from the 2016-2036 submitted Local Plan (2016-2036 Local Plan), as well as the National Planning Policy Framework (Framework) , and in particular Section 16, all of which seek a high quality of design which respects the character and appearance of the local context, including of designated heritage assets.

Issue b) Living Conditions

13. There is already some overlooking between the appeal property and its neighbouring properties, particularly given the steeply sloping site and pattern of glazing in these properties. However, I agree that the design of the upper floor extension with its additional window in the side elevation as well as the balcony wrapping around the side facing towards the neighbouring property, Tara would unacceptably increase the extent of overlooking and leading to a loss of privacy for these neighbours. This harm to the neighbours' living conditions would conflict with Saved Policy 59.BE of the Local Plan Review; Policy DM1 of the 2016-2036 Local Plan; and the Quality Places Supplementary Planning Document as well as paragraph 127 f) of the Framework, all of which, amongst other things, seek to protect the amenities of existing and future occupiers.
14. However, I consider that the harm could be overcome and mitigated through a requirement for the use of a privacy screen to the balcony, and, were there no other matters of concern and planning permission were to be granted, that this could be achieved through the imposition of an appropriate condition. The Council has suggested that the condition should relate to the new window in the side elevation, but I consider that the use of an appropriate privacy screen to the balcony would be the more effective detail to ensure the protection of the neighbours' living conditions.

Issue c) Interests of Ecological Importance

15. As set out under the preliminary section, The Council has proposed a number of conditions in the event that planning permission is granted, including in relation to the submission of a preliminary ecological assessment prior to works commencing. No such assessment had been submitted with the application.
16. Paragraph 99 of Circular 06/2005 makes it clear that the presence of a protected species and the effect of the proposed development on such species

is a material consideration in the assessment of a development proposal, and that the presence or otherwise of such species needs to be addressed prior to the grant of planning permission. The guidance is clear that the imposition of a condition on a planning permission to investigate the impact of the proposal on protected species is not an appropriate way forward and that the position needs to be addressed prior to the grant of planning permission.

17. Whilst I agree that given the age of the building and its condition, protected species may not be present, there is no information before me to confirm this position. Furthermore, the site is in an environmentally sensitive location, which the Council's Ecology Officer has set out, including in proximity to the designated sites of the River Hamble, the Solent and Dorset Coast SPA, Lincegrove and Hacketts Marshes SSSI. None of the information provided to me indicates that there are exceptional reasons why the matter should not follow the recommended guidance.
18. Given the lack of any further information, I am therefore unable to conclude that the proposal would be unlikely to have an impact on protected species within or near the site. There is clear conflict with Section 15 of the Framework and Circular 06/2005 to conserve and enhance biological diversity.

Conclusion

19. I have found that the proposal would preserve the character and appearance of the designated heritage asset of the Old Bursledon Conservation Area and that the harm to the living conditions of the neighbours at Tara, could be satisfactorily mitigated and overcome through the imposition of an appropriate condition. However, my findings under both of these issues do not override the harm I have concluded under my third issue in respect of harm to interests of ecological importance, which leads to refusal of permission.
20. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

L J Evans

INSPECTOR