



Appeal Decision

Site Visit made on 15 September 2021

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2021

Appeal Ref: APP/X1735/W/20/3265594

Eastleigh House, Bartons Road, Havant PO9 5NA

- 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 Simon Harding of Ibex Homes Ltd against the decision of Havant Borough Council.
 - The application Ref APP/20/00366, dated 1 May 2020, was refused by notice dated 20 November 2020.
 - The development proposed is provision of 5 new 1 bedroom retirement bungalows.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was submitted, a revised National Planning Policy Framework (the Framework) was published. The parties have had an opportunity to comment on the implications of the revised Framework during the appeal process. I have had regard to comments received and determined the appeal in accordance with the revised Framework.
3. During the course of the appeal, the appellant submitted a signed planning obligation by way of a Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 (as amended) dated 29 April 2021. This deals with financial contributions towards mitigation against the impact of development on protected habitats sites. This payment was also made to the Council. The Council has confirmed that this satisfactorily addresses their first reason for refusal. I will discuss this in more detail later in this decision.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the setting of a Grade II listed building; and
 - whether or not the proposed development would provide satisfactory living conditions for future occupants of Eastleigh House and the proposed retirement bungalows, with particular regard to the provision of outdoor amenity space.

Reasons

Setting of the listed building

5. Eastleigh House is a substantial detached two-storey Grade II listed building, dating back to circa 1820. It is set back from Bartons Road, accessed via a shared driveway which sweeps round to its main entrance on its southern elevation. The property has been recently converted into flats and areas of parking and lawn have been provided adjacent to the driveway. Mature trees and vegetation extend along the eastern and southern boundaries of the grounds. High timber fencing encloses the site to its north and west. These separate it from a modern housing development which lies between the listed building and Bartons Road to the north and a public footpath to the west. This links Bartons Road to a large and recent housing development directly south of Eastleigh House. A further close-board high timber fence bisects the grounds, enclosing a large area of land to the east.
6. The appeal site occupies part of the grounds and includes the driveway and an area of land to the south and east of the listed building. This has been described by the Council as being an open lawn area with a sunken lawn, enclosed by a low garden wall. At the time of my site visit, much of the eastern side of the grounds was heavily overgrown and enclosed by the fencing. As part of the grounds to Eastleigh House, the appeal site forms part of its setting.
7. Eastleigh House would have been a substantial residential building with its main elevation facing towards to the south. From the submitted historic maps, it is evident that, until relatively recently, the building enjoyed a significantly more open setting than exists today, largely surrounded by open fields with only a couple of other large houses off Bartons Road. With the driveway extending from the west, private outdoor space and gardens would have likely been positioned to the north and the east.
8. The appellant has suggested that the drive continued beyond the southern elevation turning north-eastwards to meet up with Bartons Road thereby cutting off the south-eastern corner of the gardens from the lawned eastern area. The historic maps indicate a path may have extended along this side of the property but they do not appear to show the driveway. For this reason, I do not agree with the appellant's assessment.
9. The formal listing of the building refers to the architectural features of the building and does not refer to its setting. This does not reduce the importance of the building's setting from which these features can be experienced.
10. The encroachment into the surrounding area by housing development to the north and south has, to an extent, eroded the setting of the listed building. The house nevertheless still benefits from spacious grounds, beyond the driveway and to the east. This area, enclosed by mature trees, provides a tranquil and private space. It contributes to a sense of space around the building, enabling it to be experienced, in part, as it would have been when originally occupied as a dwelling. As such it continues to make a positive and important contribution to its setting.
11. The fence enclosing much of the eastern area of the grounds makes the listed building appear cramped within its plot particularly on this eastern side. With much of the available space around it hard surfaced to provide the driveway

and parking areas and relatively small areas of lawn, the setting appears diminished. This reinforces my view that the area currently enclosed and much of the appeal site forms an important part of the building's setting.

12. The proposed bungalows would result in the development of much of this area which would reduce the areas of garden around the building. This would lead to further erosion of the space and the building's setting.
13. The appellant has suggested that the proposed development would provide a visual shield between the listed building and the large housing development to the south. However, I observed that views of the housing development to the south are limited by the extensive vegetation along the southern boundary of the site. Whilst some of this is deciduous and would provide less screening during winter months, there is an area of open land being planted with trees within this development directly opposite the main elevation. This appears deliberate to minimise any such harmful impact on the setting of the listed building. As such, the housing development does not significantly intrude into views from the listed building. The proposed bungalows would result in a significantly more intrusive feature both visually and spatially.
14. The proposed development would be low level single-storey buildings. These could give the impression of ancillary buildings that might be found attached to substantial dwelling as suggested by the appellant. However, they would occupy the area of the grounds that would have served as private garden space, appearing visually prominent adjacent to the main elevation of the property. Consequently, they would not appear as a typical ancillary building. The historic maps indicate that outbuildings did previously exist on the site, but from my reading of those maps, no such buildings occupied this area of the grounds.
15. The appellant has suggested that the proposed dwellings would 'contain' the setting in a way that would contribute to the appreciation of the listed building. However, the appeal site and wider grounds around the heritage asset are contained by the boundary vegetation which provides adequate space around the building from which to appreciate it.
16. The listed building has planning permission for conversion into six residential units. It therefore has a useful life. It seems to me that its grounds would provide amenity space for those flats and its setting would not languish.
17. The harm the proposal would cause to the significance of the designated heritage asset would be significant though less than substantial. I have attached considerable importance and weight to the desirability of avoiding any such harmful effect on the listed building or its setting in accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Paragraph 202 of the Framework states that such harm should be weighed against the public benefits of the proposal.
18. The proposal would provide five retirement dwellings. There is a significant need for housing for older people within the Borough. The proposal would make a small contribution to this and to the overall supply of housing. The proposed housing is described as being sufficiently flexible for changing lifestyles and capable of adaptation for people with disabilities. The scheme would also provide market housing within mixed and balanced communities for elderly people who do not wish to live within a designated retirement development. In

addition, the proposal would bring some economic benefits through construction and the future occupants using local services and facilities. It would be within reasonable walking distance of some services. Together these attract moderate weight.

19. However, these public benefits are limited and the moderate weight they carry would not outweigh the less than substantial harm that I have found.
20. I conclude that the proposed development would fail to preserve the setting of the Grade II listed building. It would therefore conflict with Policy CS11 of the Havant Borough Core Strategy 2011 (CS) and Policy DM20 of the Havant Borough Local Plan (Allocations) 2014 which together require development to protect, conserve and enhance historic assets. It would also not accord with the Framework which recognises that heritage assets are irreplaceable resources and should be conserved and for any harm to such assets to be weighed against the benefits of the proposal.
21. The proposal would also conflict with emerging Policy E13 of the Pre-Submission Draft Havant Borough Local Plan 2019 (PSLP) which permits development that protects and conserves designated heritage assets and their setting. However, as this policy is emerging and at a relatively early stage, I attribute very limited weight to this conflict.

Living conditions

22. The appeal site occupies part of the grounds to Eastleigh House which has been converted into six one-bedroom flats. The area for the proposed development was allocated as 'lawned amenity' area which would be shared outdoor space for the flats under planning permission and listed building consent¹ for the conversion. The development of part of this area would significantly reduce the amount of outdoor garden space for future occupants of Eastleigh House.
23. The grounds to Eastleigh House are sizeable. A reasonable amount of outdoor space, indicated to be around 840 square metres, for future occupants of Eastleigh House would be retained to the east and some to the west. Even excluding the areas of lawn to the west of the house and adjacent to the driveway which would be less attractive to use due to their proximity to the drive and parking areas, the space would still be significant and adequate to meet the needs of future occupants of Eastleigh House.
24. The Havant Borough Design Guide Supplementary Planning Document 2011 (the SPD) sets out that all residents should have access to private amenity space. It sets out that the garden of a two-storey home should be a minimum of 10 metres in length. It does not provide a minimum length for a bungalow. The proposed bungalows would have rear garden space, ranging in depth from just under 5 metres to just over 8 metres in the case of Plot 5. None of the plots would achieve the minimum size recommended in the SPD although, technically there is no minimum length.
25. Nevertheless the gardens would be small. Whilst I accept that as retirement homes, future occupants may be seeking to downsize, the proposed gardens would not provide a spacious area for sitting out in private, performing a range of outdoor household functions or pursuing domestic leisure activities. Their

¹ Council Ref APP/19/00156 & 157

small size would make them feel cramped. They would therefore not provide satisfactory garden space for future occupants.

26. Furthermore, the tall trees along the eastern boundary of the site in combination with the orientation of Plots 4 and 5, with their rear gardens facing east, would create a sense of enclosure of the outdoor space and would cause significant shading of this space for much of the day. This, in combination with the small size of the garden, would make the space unattractive and unsatisfactory as private amenity space.
27. The appellant has suggested that, since he owns both Eastleigh House and the appeal site, future occupants of the proposed development could also utilise the communal space serving the flats. I accept that such an arrangement could be made. However, I have no evidence about how this would be secured. I note that the Council did not seek further clarification on this matter in dealing with the planning application. Nevertheless, this would not provide private amenity space to future occupants.
28. I conclude that the proposed development would not provide satisfactory living conditions for future occupants of the proposed retirement bungalows, with particular regard to the provision of outdoor amenity space although it would retain satisfactory provision for future occupants of Eastleigh House. It would therefore not accord with Policy CS16 of the CS which requires development to be designed to a high standard and to create places where people want to live and relax. It would also conflict with the Framework which requires development to create places that promote health and well-being with a high standard of amenity for future users. I have found limited conflict with SPD as referred to above.
29. It would also conflict with emerging Policies E1 and H1 of the PSLP which together require a high standard of design and the provision of private outdoor amenity space of a sufficient and functional size to meet the needs of future occupants. However, I attribute very limited weight to this conflict for reasons set out above.

Other Matters

30. The appeal site falls within the 5.6 kilometre zone of Chichester and Langstone Harbours Special Protection Areas (SPA). This is subject to statutory protection under the Conservation of Habitats and Species Regulations 2017. Regulation 63 prevents the competent authority from granting permission unless the proposal would not adversely affect the integrity of the SPA. I am the competent authority for the purposes of this appeal.
31. The Council has determined that additional residential development would, in combination with other plans and projects have a significant effect on these protected sites through additional recreational pressures and nutrient output. In these circumstances, the Council considers that appropriate mitigation would be required. The required mitigation is set out in the Solent Recreation Mitigation Strategy and in a Position Statement and Mitigation Plan for Nutrient Neutral Development.
32. The appellant has accepted the need to provide financial contributions in accordance with these requirements. This would be secured through the

submitted UU and payment made to the Council. The Council has confirmed this would address their concerns.

33. Notwithstanding the Council's findings in respect of this, as the competent authority, I am required to carry out an appropriate assessment of the effect of the proposed development. However, as I have found that the scheme is unacceptable for other reasons, I do not need to pursue this matter further.

Conclusion

34. The Council cannot demonstrate a five year supply of deliverable housing sites. This is not disputed. Paragraph 11 d) i) of the Framework states that where the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development, the presumption in favour of sustainable development does not apply. Notwithstanding that the Council has confirmed there would be no harm to the habitats site, footnote 7, in addition to habitats sites, identifies designated heritage assets as particularly important. Consequently, harm to the heritage assets is sufficient reason to reject the proposal.
35. The proposal conflicts with the development plan read as a whole and there are no material considerations to indicate that the application should be determined otherwise than in accordance with the development plan.
36. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Rachael Pipkin

INSPECTOR