
Appeal Decision

Site visit made on 15 February 2022

by John Wilde CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 7th March 2022

Appeal Ref: APP/C1760/W/21/3280473
88 Salisbury Road, Andover SP10 2LJ

- 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 Ruth Charter against the decision of Test Valley Borough Council.
 - The application Ref 21/01325/FULLN, dated 4 May 2021, was refused by notice dated 12 July 2021.
 - The development proposed is one new dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:-
 - a) The character and appearance of the area,
 - b) The living conditions of the occupiers of 164, 166 and 168 Millway Road with particular respect to privacy,
 - c) Protected habitats and bird species within the Solent with respect to nutrient neutrality.

Reasons

Character and appearance

3. The appeal site is an irregular shaped area of the rear garden of 88 Salisbury Road, although the proposed dwelling would face Magnolia Close.
4. Magnolia Close consists of semi-detached houses with attached garages and front driveways. Most, but not all of the properties also have planting to the front. The appeal site is seen at the end of the Close and currently forms a relief from the immediate built form, with glimpses of the rear elevations of properties in Millway Road interspersed with trees.
5. The set back from the road of the proposed dwelling would be considerably less than other properties in the close, particularly those nearest the site, and this would result in cars being parked at an angle to the front elevation of the dwelling, rather than in a traditional linear arrangement as other properties within Magnolia Close. Furthermore, due to the lack of depth and irregular shape of the site, there would only be a very small rear garden area, with the

largest amenity areas being to the sides of the property. The proximity to the road at the front, the compressed parking arrangement and configuration of the site would, to my mind, result in the development appearing somewhat cramped and contrived, and out of keeping with the other built form in the immediate area. Whilst planting to the front would help with this situation, it would not overcome it.

6. These factors lead me to conclude that the proposed development would appear incongruous within the immediate context and that conflict would occur with policy E1 of the Test Valley Borough Local Plan 2011-2029 (LP), which seeks to ensure, amongst other things, that development integrates with and respects and complements the character of the area in which it is located. There would also be conflict with policy E2 of the LP which requires that development should not have a detrimental impact on the appearance of the immediate area.

Living conditions

7. The proposed dwelling would have a first floor rear window serving a bedroom. Due to the lack of depth of the appeal site this window would be in close proximity to the rear gardens of properties in Millway Road. Whilst the angle of sight to the garden of 164 Millway Road would be somewhat oblique, this would not be the case with the gardens of Nos 166 and 168. To my mind the proximity of the proposed window to these gardens would lead to an undue loss of privacy to the occupiers of these properties when using their gardens, notwithstanding the outbuilding in the garden of No 168. The close proximity of the rear window to these gardens also reinforces my view regarding the cramped nature of the site.
8. This lack of privacy would result in conflict with LP policy LHW4 which seeks to ensure, amongst other things, that development provides privacy for the occupants of neighbouring property.

Nutrient neutrality

9. The appeal site lies within the catchment area of the Solent, and therefore it is likely that wastewater from the proposed development could enter the catchment area. I have been provided with a document entitled *Summary advice on achieving nutrient neutrality for new development in the Solent region* produced by Natural England. This explains that there is sound evidence that high levels of nitrogen and phosphorus are polluting protected sites. Policy E8 of the LP requires that development will only be permitted provided that it does not cause unacceptable risks to human health, the natural environment or general amenity.
10. To this end the policy requires that applications for development which is likely to generate pollution will require the submission of a relevant assessment based on current guidance. However, I have not been provided with an assessment. The appellant has indicated in his statement that this matter *will be the subject of a nutrient neutrality report that will be submitted shortly to the Planning Inspectorate*, but I have not been provided with such a report.
11. I have been supplied with a draft Deed of Agreement pursuant to Section 106 of the Town and Country Planning Act 1990 and Section 111 Local Government Act 1972. This would result in the payment of a Nitrate Mitigation Contribution

to the Council. However, as I have said, the Deed is not signed and dated and therefore I can give it little weight in my determination.

12. It follows that I cannot currently be sure that the proposed development would not cause unacceptable risks to human health or the natural environment and therefore conflict with policy E8 exists.

Conclusion

13. For the above reasons, and having taken into account all other matters raised, including the relatively accessible location of the site and the need for three bed properties in the district, I conclude that the appeal should be dismissed.

John Wilde

INSPECTOR