
Appeal Decision

Site visit made on 22 March 2022

by J P Longmuir BA (Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 September 2022

Appeal Ref: APP/C1760/W/21/3281103
23, The Avenue, Andover, Hants SP10 3EW

- 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 J Brown against the decision of Test Valley Borough Council.
 - The application Ref 19/02236/FULLN, dated 12 September 2019, was refused by notice dated 25 February 2021.
 - The development proposed is the erection of a single detached dwelling with garage, access and parking facilities.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a single detached dwelling with garage, access and parking facilities at 23, The Avenue, Andover, Hants SP10 3EW in accordance with the terms of the application, Ref 19/02236/FULLN, dated 12 September 2019, subject to the conditions in the annexe at the end of this decision.

Preliminary Matters

2. A unilateral undertaking was signed on 9th August 2022 which provides for 0.39ha of land at Larkfield, Andover, to be decommissioned from lowland grazing and planted as a wildflower meadow. I give this consideration as below.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on the living conditions of Nos. 21, 23 and 25 The Avenue, Nos.27 and 29 Croye Close and Ambleside and;
 - the effect of the proposal on protected sites in/around the Solent.

Reasons

The character and appearance of the area

4. The Avenue is a well-established residential street in a suburban part of Andover. The dwellings are varied in their style and materials along the road.
5. The Council's Residential Areas of Special Character Supplementary Planning Document 2019 (SPD) provides an analysis of the character of the area. The

character area for The Avenue and Eversfield Close is described as a mainly straight road with large residential plots and two small closes and a private road as offshoots.

6. The appeal site lies behind the garden of No. 23 The Avenue and is only glimpsed through narrow gaps between the buildings. To the side of No. 21, is an offshoot, Eversfield Close, a residential cul-de-sac of late twentieth century dwellings. Ambleside, a detached dwelling, lies off the Close and is adjacent to the appeal site.
7. The appeal site is a large garden, which formerly was the garden to No.23, but is now segregated from it and the neighbouring properties by fences. There are several tall trees on the sides but otherwise it is largely open and grassed.
8. The proposal includes a new access which would be effectively an extension to the existing driveway to Ambleside. Such an extended access within a residential area would not look out of place. Similarly, the proposed house would be set alongside Ambleside and would also appear appropriate.
9. The Council has provided analysis of plot sizes in the vicinity, but I noted on my site visit that the appeal site would be spacious so that the proposed dwelling would not appear to be uncharacteristic or cramped. The proposed house would be set well back from The Avenue frontage, which would also not lead to a cramped appearance. The SPD provides analysis of the character of the area and gives the average plot size as 0.08ha. The Officer's report quantifies this appeal site and the associated reduced adjacent plot as 0.07ha which would not be significantly different from the average in the SPD, and they are not prominent from public view.
10. The houses on The Avenue face the road and provide a well-defined building line. However, the presence of Eversfield Close to the rear of The Avenue has established the principle of development to the rear, so a new dwelling would not be out of place.
11. The SPD notes: Development within this area is defined as having a strong character with 'a regular and almost continuous spacing of trees down the area's length, coupled with a fairly constant level of on-plot planting giving this street a generally consistent, recognisable and strong character. Many of the houses have a similarity in style and materials which helps reinforce the character'. On my site visit I did not find The Avenue in the vicinity of the appeal site had consistent architecture and indeed the Committee Report notes the variety of roof forms. The proposal would not therefore upset the uniformity of The Avenue particularly as it would be set back from the frontage and of a modest height.
12. The dwelling would be low height, at 6.9m, which would also allow it to appear deferential to the surroundings. The design shows a broken massing with gables breaking up the roof form and a separate car port. Whilst one of the local residents does question land levels, a survey has been provided which shows only a very slight slope across the site and the finished floor level could be conditioned.
13. The windows would be well placed and proportioned, leading to a modest window/wall ratio. The gables, eaves oversail and chimney would provide

character. The vertical boarded timber and white render would also give a broken expanse to the walling.

14. The layout shows space would be available for landscaping along the access and in the garden. Indeed, the appellant's submission suggests the rear garden would be 11-12m deep with a 2m corridor for planting along the access. This would reflect the SPD, which notes the vegetation within the gardens and plot boundaries are typically low brick walls, hedges or timber fencing. The submitted layout shows boundaries as hedges and fences which would be appropriate.
15. Whilst the Council describe the proposal as a modern design, I do not find that the elevations would appear harmful, particularly in terms of its scale, massing, proportions, detailing and materials. The SPD notes there are some bungalows in this area and the proposal being one and a half storey would fit well with the mix of dwellings.
16. I therefore find the proposal would not harm the character and appearance of the area. Policy E1, of the Test Valley Borough Revised Local Plan, adopted 2016, (LP) seeks high quality development in terms of design and local distinctiveness, including integrating and respect of the context, protection of views, maintain connectivity and an efficient use of land whilst respecting the area. Policy E2 seeks to protect the landscape, trees and hedges. Policy E4 refers to residential areas of special character. It provides criteria for development; the resulting sizes of both the proposed and remainder of the original plot when sub-divided are not significantly smaller than those in the immediate vicinity and the development's size, layout, type, siting and detailed design are compatible with the area. The SPD provides analysis of the character of the area.
17. Paragraph 126 of the National Planning Policy Framework (the Framework) sees the creation of high quality, beautiful and sustainable buildings and places as fundamental to what planning should achieve. Paragraph 130 states developments should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping.
18. The proposal would not therefore be in conflict with the above policies and guidance.

The living conditions of the occupants of the neighbouring dwellings

19. No.23 has the most direct juxtaposition with the appeal dwelling and I saw the interior and garden on my site visit. The dwelling has windows over 3 storeys looking towards the appeal site. The appellant's submission suggests the new windows would be 33m away, which would far surpass the minimum distance needed for privacy. There is a rear patio/sitting out area, but this would also be reasonably distanced from the new dwelling. A fence has been erected on the boundary to distinguish the garden areas and this could be reinforced by landscaping. No.25 would be further distanced, and the new car port would also provide some screening and relief to the building roofline.
20. Ambleside would be 7m from the appeal building and would be side on. Its fenestration is arranged to front and back rather than the side facing the appeal site. Moreover, the appeal dwelling would only have one high level

rooflight on this side and the ground floor would be obscured by the existing fence.

21. Nos. 27 and 29 Croye Close are to the rear of the appeal site and would look towards it. However, in the garden of the nearest dwelling is an existing outbuilding, which is suggested as 3.85m high, which would offer some screening. Moreover, the nearest point would be 23m away, which taken as a ballpark would offer an adequate separation distance.
22. The decision notice foresees the proposal would be visually dominant and overbearing, which would unreasonably harm the outlook of the occupants of the above dwellings. However, I find that the height of the dwelling would be modest, at 6.9m, and at a similar ground level to the neighbouring dwellings. In addition, it would be sited well away from the neighbouring dwellings as noted above and would not have a substantial massing. As a result of all these factors, the neighbouring residents would not suffer any significant overbearing effect or loss of reasonable outlook. In terms of daylighting and shadowing, the separation distances would also be sufficient to avoid significant harm.
23. I therefore conclude that the proposal would not harm the living conditions of the occupants of the neighbouring dwellings.
24. The Council does not have a policy stipulating minimum separation distances to maintain living standards. Nonetheless, Policy LHW4 of the LP does require that privacy and amenity are respected as well as the provision of private open space and maintenance of daylighting. The proposal would not be in conflict with this policy as there would be sufficient distance for the dwelling as designed to avoid harm in terms of shadowing, overbearing, loss of outlook or privacy.

The effect of the proposal on protected sites in/around the Solent

25. The site lies within the zone of influence of River Test and the Solent. These areas are important for their aquatic ecology. They are also noted for various scarce species and distinctive habitat, which are protected under The Conservation of Habitats and Species Regulations 2017. LP Policy E5 requires that development where possible restores or enhances biodiversity. It also makes reference to the Habitats Regulations and protected sites. LP Policy E8 seeks to protect the natural environment from pollution.
26. The proposal has been calculated as leading to 3.1 KG/N/year in nitrate discharge into The Solent using the latest guidance. Having regard to the evidence provided by the Council I consider that the development could, in combination with other development in the area, have a significant adverse effect on the above designations: the discharge of drainage and wastewater could lead to enriched nutrient levels, particularly nitrates leading to growth of weeds and impairing aquatic ecology. It is therefore necessary to assess whether the potential adverse impact could be adequately mitigated so as to avoid any significant adverse effect on the conservation objectives of the above designations.
27. The Council, in partnership with neighbouring councils and conservation bodies, including Natural England, has developed an approach to mitigation based on the nutrient neutral water discharge can be achieved by land management, SUDs, tree planting and avoidance of fertilizers. Residential development close

to the designations can mitigate its potential adverse impact by using these initiatives.

28. A Unilateral Undertaking has been signed which requires an 0.39 ha area of agricultural land to be removed from grazing and replaced by wildflower meadow. A monitoring contribution is also included. The Undertaking would remove nitrate discharge from that land which would compensate for this dwelling. I consider that this meets the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and therefore carries weight. I am satisfied that this would result in suitable mitigation such that the development would avoid having any significant adverse effect on the above designations. The Council confirmed that the Undertaking resolved their concerns in relation to this reason for refusal.

29. The proposal would not therefore conflict with Policies E5 and E8 of the LP.

Other matters

30. There is concern that the carport could provide access to neighbouring gardens and thereby jeopardise security. However, the car port would be well away from any public right of way and within a private garden, consequently it would not be expected to be in an area where an intruder would have easy access.

31. There is concern about the impact of construction vehicles during works due to the narrowness of the access. This could be the subject of a condition thereby ensuring the process is properly managed to minimise disturbance.

Planning Balance

32. The construction of the new dwelling would be an economic benefit and the occupants would be well located to support the use of local facilities and services. The addition of a new dwelling would be a social benefit by providing a new home. The proposal would not have adverse environmental impact.

33. I have found above that the proposal would not be harmful and would comply with the Development Plan.

Conditions

34. Paragraph 56 of the Framework and the Planning Practice Guidance (PPG) provide the tests for the imposition of conditions. The timing condition and compliance with plans help provide clarity.

35. The PPG advises that permitted development rights should not be removed unless particularly warranted. The suggested condition preventing new windows without permission is necessary here as such changes would be likely to effect the privacy of the occupants of the adjacent dwellings.

36. The finished floor level is not overtly clear in the elevations and a condition to require the submission and approval of this detail would ensure that the height is in keeping with the area. The condition on approval of materials is necessary to ensure a satisfactory appearance.

37. A condition requiring details of the Construction Management Process would help maintain living conditions during construction and is necessary due to the adjacent dwellings. The appellant suggests such a generic condition in response to the local resident's concerns.

38. Conditions are needed on tree protection measures to ensure that the trees which are on boundaries are safeguarded during construction. These are important to the character of the area. The protection measures condition is worded as a pre-commencement due to the necessity of measures beforehand. The landscaping condition is necessary so that the development is sympathetic to the surroundings. The condition on biodiversity is necessary to ensure that an enhancement is provided.

Conclusion

39. I therefore conclude that the appeal should be allowed subject to the conditions below.

John Longmuir

INSPECTOR

Conditions annexe

1. The development hereby permitted shall be begun within three years from the date of this permission.
2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers: P19-030-02-02-001A Amended Location & Block Plan, Feb 2021 P19-030-02-02-002D Amended Proposed Site Plan, Feb 2021 P19-030-02-03-002B Proposed Garage Elevations, Aug 2019 P19-030-02-04-001B Proposed Site Section A-A, Aug 2019 P19-030-02-04-002A Proposed Site sections B.B & C.C, Oct 2019 B.201/1 Rev A Parking Space 1, Nov 2019 B.201/2 Rev A Parking Space 2, Nov 2019 B.201/3 Rev A Parking Space 3, Nov 2019 1205-01 Rev E Amended Tree Protection Plan, Feb 2021 P19-030-02-03-001 Proposed Floor Plans, July 2019 P19-030-02-03-003 Proposed replacement single garage and elevations, July 2019 P19-030-02-05-001 Proposed elevations, July 2019.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows on any elevation of the proposal hereby permitted other than those expressly authorised by this permission shall be constructed.
4. Prior to development commencing an updated Arboricultural Impact Assessment shall be submitted to and approved in writing by the local planning authority, including details of tree protection measures. The Arboricultural Impact Assessment shall include an updated Tree Protection Plan showing the carport and the extent of the no dig area and cellular confinement system to be used within the RPAs of trees and full details of how the driveway outside of the RPAs will be constructed. The details submitted must include cross sections demonstrating the relationship between the driveway, the carport and the proposed dwelling. It must also include full details of drainage, services and contractor facilities and confirmation that the Tree Protection Fencing and Ground Protection Areas have been laid out as shown on Drawing Number 1205-01 Rev E dated February 2021. The Tree Protection measures as approved shall be erected prior to any

development commencing and shall be maintained throughout the construction process, in accordance with the approved details.

5. All service routes, drain runs, soakaways or excavations in connection with the development hereby permitted shall remain wholly outside the tree protective barrier and RPAs of T10, T2, T3 and T7 as shown on the Tree Protection Plan.

6. No development shall take place above DPC level of the development hereby permitted until full details of hard and soft landscape works have been submitted to and approved in writing by the local planning authority. Details shall include a scheme of additional and replacement tree and shrub planting and details of the visual appearance of the new driveway and how this will integrate with the appearance of the existing driveway. Details of any new and replacement fencing shall also be included. Soft landscape works shall include: planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities. The landscape works shall be carried out in accordance with the implementation programme and in accordance with the management plan which must cover a minimum period of five years to ensure successful establishment.

7. No development shall take place above DPC level until a scheme of biodiversity enhancement has been submitted to and approved in writing by the local planning authority. The enhancement measures shall be implemented as approved before the development is occupied and maintained thereafter for the lifetime of the development.

8. Notwithstanding the details submitted within the Design and Access Statement dated September 2019, no development shall take place above DPC level of the development hereby permitted until samples and details of the materials to be used in the construction of all external surfaces hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details

9. No walls shall be constructed above ground shall take place until details of the proposed ground and finished floor levels have been submitted to and approved in writing by the Local Planning Authority. The building shall only be implemented in accordance with the approved details.

10. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for: the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials; the use of wheel washing facilities; measures to control the emission of dust and dirt during construction; construction working hours. The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

End of conditions