



Appeal Decision

Site visit made on 5 October 2022

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 February 2023

Appeal Ref: APP/C1760/W/21/3288126

Land adjacent to 5 Riverside Green, Kings Somborne SO20 6NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Planning Base Limited against Test Valley Borough Council.
 - The application Ref 21/01050/FULLS, is dated 8 April 2021.
 - The development proposed is erection of one dwelling.
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Decision

1. The appeal is dismissed and planning permission for the erection of one dwelling is refused.

Preliminary Matters

2. Since the appeal responds to the Council not having determined the application, there is no decision notice. Nonetheless, they have stated it would have been refused. The reasons for which have informed the main issues of the appeal.
3. Concerns have been raised relating to alleged inaccuracies in the submitted documents and plans. For the avoidance of doubt, I have determined the appeal on the basis of the information before me and what I saw on site.

Main Issues

4. The main issues are:
 - whether the proposal would provide satisfactory living conditions for the future occupiers of the proposed dwelling, with particular regard to private amenity space; and
 - whether the proposal would preserve or enhance the character or appearance of the Kings Somborne Conservation Area.

Reasons

Living conditions

5. The proposal, for the erection of one new dwelling at land adjacent to 5 Riverside Green in Kings Somborne, is stated on the application form as accommodating one bedroom. The appellant has confirmed that the proposal relates to a single bedroomed house.
6. I have noted the concerns raised by the Council and local residents about the possibility that, given the generous amount of space internally, the first floor

could be readily converted to 2 bedrooms, which in turn could have implications for parking provision and garden space. However, planning decisions are ordinarily taken on the basis of what has been applied for. Indeed, the Council have referred to appeal decision Ref APP/C1760/D/18/3205051 where this approach was taken by the Inspector.

7. On this basis, whilst I have noted the size of the bedroom on the first floor of the proposed new dwelling and the proposed facilities for the dwelling as a whole, I consider that the proposal should be considered on the basis of what has been applied for, taking account of the plans as submitted, rather than on potentially unfounded supposition.
8. It is common ground between the main parties that a one bedroom property with one on-site car parking space would meet the relevant adopted parking standards given in the Test Valley Borough Revised Local Plan DPD: Adopted Local Plan 2011-2029 (adopted 2016) (Local Plan). I have no substantive evidence before me that leads me to conclude otherwise.
9. Aside from the potential scenario of a second car parking space being created on site, the Council have raised no concerns with respect to the size of the proposed private amenity space. No specific minimum garden sizes have been suggested by the Council as being reasonable and no conflict with Building for Life 12 has been raised by the Council.
10. The rear garden area would be north-facing, resulting in the overshadowing of that area, mainly arising from the presence of the proposed 2-storey dwelling. However, the rear garden would receive good levels of sunlight in the morning, and at other times the overshadowing effect towards the rear garden would be somewhat mitigated by the availability of the garden area to the east of the proposed dwelling, which would be mostly unaffected by overshadowing at those times. Similarly, during those times when the garden area to the east of the proposed dwelling would be overshadowed, much of the rear garden would not be.
11. Therefore, noting that part c) of Policy LHW4 of the Local Plan refers to 'daylight and sunlight' rather than 'daylight or sunlight', it follows that, irrespective of the merits of the proposal with respect to daylight, as the level of sunlight reaching the garden would be acceptable, no conflict would arise with part c) of Policy LHW4 which provides that, amongst other things, development will be permitted provided that it does not reduce the levels of daylight and sunlight reaching new and existing properties or private open space to below acceptable levels.
12. I recognise that the Inspector in appeal decision Ref APP/C1760/W/18/3214381 found that an excessively dark environment would result for the proposal before them but as no plans have been provided it has not been possible to make a meaningful comparison with the appeal proposal. Hence, that appeal decision does not change my findings with respect to sunlight.
13. The presence of the tall walls of the proposed 2-storey dwelling and the long flank wall of the block of garages, in close proximity to the rear garden area, would appreciably reduce the amount of daylight received into that area, making much of the area appear gloomy to its users. In my view, these features at such close range to the rear garden area would also create a

tangible perception of enclosure within that space, even taking account of the garden area proposed to the east of the dwelling and the amount of 'visible' parts within the garden as a whole.

14. Local residents have asserted that the public footpath, to the north of the site, is approximately 1 metre higher than the northern boundary of the proposed garden, and the appellant has not provided any specific measurements which might refute this claim. Therefore, whilst based on the evidence before me it is not possible to be definitive with respect to the height of the footpath relative to the rear garden area, it has not been demonstrated that any boundary treatment, potentially including a fence and soft landscaping, would adequately screen the site from direct views into the garden from the footpath. Although the Inspector in appeal decision Ref APP/C1760/W/18/3214381 mentioned that the main garden would be private, my findings are based upon the evidence before me in this appeal.
15. As such, it would not be reasonable to impose a planning condition to require details of boundary treatments to be submitted to the Local Planning Authority for approval, given the uncertainty as to whether any screening would be effective. This is particularly so, as due to the site's location in a conservation area, and the protected status of the right of way along the footpath, there would in all likelihood be constraints on the height of any proposed boundary treatment to the north of the site. Consequently, the rear garden area would not provide a private space, which would considerably undermine the enjoyment of it for the future occupiers of the proposed new dwelling.
16. The sloping nature of the site, whilst not being excessive, would somewhat diminish the usability of the garden with respect to the recreational needs of the future occupiers of the proposed one bedroom dwelling.
17. I have taken account of the total size of the proposed private amenity space, and I note that the scheme before me seeks to address the concerns of the Inspector raised in appeal decision Ref APP/C1760/W/18/3214381, but considering the evident deficiencies of the proposal as described above, particularly with regards to the perception of enclosure and a lack of privacy within the rear garden area, it is the case that the garden as proposed would not be reasonably enjoyable to use. Accordingly, it would not contribute to the well-being of the future occupiers of the proposed one bedroom property, and it would not be appropriate for their needs.
18. I therefore find that the proposal would not provide satisfactory living conditions for the future occupiers of the proposed dwelling, with particular regard to private amenity space. The proposal would conflict with part b) of Policy LHW4 of the Local Plan which provides that, amongst other things, development will be permitted provided that in the case of residential developments it provides for private open space in the form of gardens or communal open space which are appropriate for the needs of residents.
19. The proposal would also conflict with paragraph 130 f) of the National Planning Policy Framework (the Framework) which provides that, amongst other things, planning decisions should ensure that developments create places with a high standard of amenity for future users.

Character and appearance

20. The appeal site is a small parcel of land off-set from the main areas of residential development which comprise the cul-de-sac of Riverside Green and it is currently devoid of built development. The site is within the Kings Somborne Conservation Area (conservation area). The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) provides at s72(1) that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
21. The significance of the conservation area, as a whole, as a designated heritage asset is derived predominantly from its numerous buildings of historic interest (including several thatched cottages), set within a spacious, verdant, and tranquil setting. I have had regard to the Inspector's description of the qualities of Riverside Green and the site itself, given in appeal decision Ref APP/C1760/W/18/3214381. Taking this into account, and based on my observations, I consider that Riverside Green, albeit a modern development, contributes to the significance of the conservation area primarily by its largely cohesive pattern of development, which consists of properties well set-back from the footway behind open front areas in mostly identifiable rows, with consistent and legible design details including gables, porches and suitably-aligned window arrangements.
22. In marked contrast to this established pattern of development, the proposed new dwelling would be positioned very close to the front of the plot. As such, the dwelling would have a small front garden area, which would be out-of-keeping with the generally larger and more clearly defined front garden / parking areas found at nearby properties. Furthermore, due to its position close to the western boundary of the plot, and its noticeable separation from other properties on Riverside Green, although the proposed new dwelling would not compromise the sense of spaciousness focused towards the green mentioned by the Inspector in appeal decision Ref APP/C1760/W/18/3214381, the proposed new dwelling would appear isolated from the surrounding residential development in Riverside Green as a whole.
23. Given the size of the plot overall, the fairly narrow width of the proposed new dwelling, and the proposed provision of one car parking space and a bike shed near the front of the plot, the proposed new dwelling would appear cramped within its plot in comparison with nearby properties, which are commonly situated within reasonably-sized plots and which often have 2 parking spaces or garages. This cramped appearance would be exacerbated by the proposed close-boarded fence, which would extend towards the front of the plot.
24. Moreover, being so close to the access way, the new dwelling would have an overbearing presence in nearby views. This negative effect would be compounded by the bland and largely featureless façade of the north-eastern elevation, which would be visible when approaching the garages to the east of the site. In addition to this, the varying, but nevertheless small, sizes of the windows on the principal south-east elevation, would not reflect the design or articulation of the houses nearby.
25. It is clear then, that whilst the Inspector in appeal decision Ref APP/C1760/W/18/3214381 found that the redevelopment of the site would appropriately consolidate development within Riverside Green, for the reasons

given above I consider that the proposal before me would lack cohesion with the surrounding development and would undermine the contribution that Riverside Green makes to the significance of the conservation area. Although the harm that would be caused to the significance of the conservation area as a designated heritage asset would be localised and accordingly would be less than substantial, this harm must be weighed against the public benefits of the proposal.

26. In this regard, the proposal would provide one new dwelling within an established residential area and consequently would add to the housing stock in the local area. It would also contribute to housing choice and mix within Kings Somborne, including for those seeking a smaller property. In turn, the proposal would provide work for construction professionals and others involved in the development process. The future occupiers of the proposed new dwelling potentially would contribute to the social life of the local community.
27. The Framework makes clear that great weight needs to be given to designated heritage assets' conservation. Collectively I give moderate weight to all the benefits of the proposal and find that they do not, either individually or cumulatively, amount to public benefits which outweigh the harm that would be caused to the significance of the conservation area.
28. As mentioned above, reference has been made to appeal decision Ref APP/C1760/W/18/3214381. I have had regard to both the appeal decision as a whole and the individual quotes taken from it. I note that the appeal proposal has been designed to address the concerns raised by the Inspector in that decision. However, as no plans have been provided it has not been possible to make a meaningful comparison with the appeal proposal. Hence, that appeal decision does not change my findings.
29. I therefore find that the proposal would not preserve or enhance the character or appearance of the conservation area. It would conflict with part a) of Policy E1 of the Local Plan which provides that, amongst other things, development should integrate, respect and complement the character of the area in which the development is located in terms of layout, appearance, scale, and building styles, and with part a) of Policy E9 of the Local Plan which provides that, amongst other things, development and/or works affecting a heritage asset will be permitted provided that it would make a positive contribution to sustaining or enhancing the significance of the heritage asset taking account of its character, appearance and setting. The proposal would also conflict with chapter 12 of the Framework, which seeks to achieve well-designed places.
30. Reference has been made to a Neighbourhood Plan, but no copy of any such document has been provided and I am therefore unable to assess the proposal against it.

Other Matters and Planning Balance

31. I have summarised on the second main issue (above), the benefits that the proposal would offer to the public. The proposal would also incorporate a bike shed, and would thereby make a contribution towards promoting sustainable transport. Minimal details have been provided to demonstrate the scale of biodiversity enhancements which potentially could arise on site via the proposal.

32. Taking all of the above into account, including the representations received in support of the proposal which, amongst other matters, highlight the potential attraction of the proposed new dwelling to first time buyers and young people, and considering the planning harm which I have identified on both main issues to which collectively I ascribe very significant weight, as a matter of planning judgement I find that all the matters advanced in support of the proposal, do not, either individually or collectively, outweigh the harms identified, nor the conflict with the development plan identified.
33. Had my findings in relation to the main issues been more favourable, it would have been necessary to address representations on the other issues raised by local residents, including (amongst others) matters of highway safety and convenience, access, the protection of trees and their roots, and the living conditions of the occupiers of 5 Riverside Green, which were not given as reasons for refusal in the Council's putative decision notice, in more detail. However, as I am dismissing the appeal for other reasons, I make no further comments on these matters.
34. As mentioned in the first and second reasons for refusal given in the Council's putative decision notice, the Council considers that the proposal has the potential to have a significant effect on the New Forest Special Protection Area and the Solent and Southampton Water European Designated Site. However, as I am dismissing the appeal for other reasons, there is no need to consider the potential implications of the proposal in these respects, nor is it necessary to consider the submitted Habitats Mitigation Contribution Agreement in any further detail. I therefore make no further comments on these matters.

Conclusion

35. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR