



Appeal Decision

Site visit made on 31 January 2023

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 March 2023

Appeal Ref: APP/X1735/W/21/3287248

Rear of 65 Andrew Crescent, Waterlooville, Hampshire PO7 6BG

- 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 Andy Jeans (Construction Southern) against the decision of Havant Borough Council.
 - The application Ref APP/21/00639, dated 10 May 2021, was refused by notice dated 22 October 2021.
 - The development proposed is new build 1 bedroom bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Amended plans were submitted while the application was under the Council's consideration, adjusting the proposed internal layout to comply with the Nationally Described Space Standards¹ and including details of proposed cycle and refuse storage. I have had regard to these amended plans.
3. The emerging Havant Borough Local Plan was withdrawn from Examination on 16 March 2022, while the appeal was under consideration. This is explained in the Council's appeal statement and therefore the appellant has had the opportunity to comment on this changing policy context. When considering the appeal, I have not had regard to any policies of the emerging Local Plan.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the area,
 - the effect on living conditions for the occupiers of 2 Margaret Close and 67 Andrew Crescent, with particular regard to outlook and noise and disturbance,
 - whether the proposal would provide acceptable living conditions for future occupiers, with particular regard to outlook and level of daylight, and
 - whether it would comply with national planning policy which seeks to steer new development away from areas at the highest risk of flooding.

¹ Technical Housing Standards – Nationally Described Space Standard (2015)

Reasons

Character and Appearance

5. The appeal site is a rectangular parcel of land to the rear of 65 Andrew Crescent. It is now in separate ownership from no. 65 and enclosed by close boarded fencing. There is an existing vehicular access to Margaret Close, where a single garage previously located on the site has been demolished.
6. The surrounding residential estate comprises bungalows laid out in a regular pattern, with gardens to front and rear. Although their designs and external materials vary to some extent, there is a strong sense of consistency within the street scene. Similar roof pitches and front gable features are a distinctive and unifying characteristic. Lateral separation between the bungalows is relatively limited, but the extent of their rear gardens contributes a sense of spaciousness to the street scene.
7. Although the design would reflect local design features such as the gable to the front, the limited extent of the plot and the siting of the proposed bungalow would depart from the pattern of surrounding development. There would be very little space to the rear, or alongside the boundary with 2 Margaret Close. The bungalow would appear particularly cramped along these boundaries and somewhat crammed into one corner of the site. It would be of significantly greater scale and massing than the previous single garage. A new dwelling in this position would erode the sense of space associated with this parcel of former garden land.
8. For the above reasons, I conclude that the proposed development would be harmful to the character and appearance of the area and would conflict with Policy CS16 of the Havant Borough Core Strategy, adopted March 2011 (Core Strategy). This policy, amongst other things, requires that development responds to, draws inspiration from and respects local context, being informed by local characteristics such as plot widths and depths.

Living Conditions – Neighbouring Properties

9. There are several rear-facing windows on the adjacent property at 2 Margaret Close, which also has a relatively small rear garden. The proposed development would introduce a lengthy pitched roof parallel to the boundary, in close quarters and directly in line with the outlook from the rear windows and garden. It would significantly exceed the height of the existing fence and single storey garage. As a result of its height, massing and proximity to the boundary, the proposed bungalow would form a prominent and enclosing feature in the outlook from 2 Margaret Close, to an extent that would be harmful to living conditions within that property.
10. The proposed bungalow would be similarly prominent from the rear garden of no. 67 Andrew Crescent. However, this is a somewhat larger garden, the outlook from which includes several surrounding outbuildings and bungalows. These already provide some degree of visual enclosure. The difference in ground levels is not so significant as to make the proposed bungalow markedly more prominent. Therefore, given the established built-up surroundings, while the roof of the proposed bungalow would be clearly visible from the garden of no. 67, the degree of visual intrusion would not be inherently harmful.

11. The proposed patio doors would be likely to focus outdoor activity into an area adjacent to the boundaries with nos. 65 and 67 Andrew Crescent. However, the surrounding plots are not so extensive as to prevent noise from domestic activity spreading into adjacent gardens. Given the established residential character of the neighbourhood, introduction of one additional dwelling would not materially increase noise and disturbance beyond levels which could reasonably be expected in this built-up residential area.
12. Nevertheless, for the reasons set out above I conclude that the proposed development would be harmful to living conditions for occupiers of 2 Margaret Close, as a result of its effect on outlook. It would conflict with Policy CS16 of the Core Strategy which, amongst other things, requires that development does not cause unacceptable harm to the amenity of neighbours through the loss of outlook.

Living Conditions – Future Occupiers

13. Several windows of the proposed bungalow would face directly onto the surrounding boundary fences. In particular, the only window to the bedroom would face into the rear corner of the site. There is a high degree of enclosure in this part of the site, as a result of the adjacent close boarded boundary fences, combined with relatively dense tree cover in the adjacent garden. As a result, this bedroom would have a highly restricted outlook and would lack adequate levels of daylight.
14. One proposed kitchen/dining room window would similarly face directly onto the boundary fence, but it would be less directly affected by the nearby tree cover. This room would also benefit from a second window and a set of patio doors. Similarly, the lounge area would have three windows, mitigating any harm arising from the proximity of one of those windows to the side boundary.
15. These rooms would also have an outlook into the proposed garden, which would itself provide outdoor amenity space in reasonable proportion to the scale of the proposed bungalow. Therefore, the proposed living, dining and kitchen accommodation would provide acceptable living conditions for future occupiers.
16. Nevertheless, the lack of outlook and adequate daylight in the bedroom would adversely affect a significant proportion of the proposed accommodation, encompassing all the proposed bedroom space. For that reason, I conclude that the proposed bungalow would not provide adequate living conditions for future occupiers. It would conflict with Policy CS16 of the Core Strategy which, amongst other things, states that development should be designed to a high standard, which helps to create places where people want to live, work and relax.

Flooding

17. The National Planning Policy Framework (the Framework) advises that development should be directed away from areas at highest risk of flooding, and that flood risk should not be increased elsewhere as a result of proposed development. It further states that, where appropriate, applications should be supported by site-specific flood risk assessments, such as where development would introduce a more vulnerable use, like new dwellings.

18. Evidence from interested parties indicates a history of surface water flooding within gardens. This is focussed on an area close to the south-east boundary of the appeal site, where the proposed bungalow would be located. While the Council's investigations are not conclusive, they identify historic evidence of a pond in the vicinity, as well as potential drainage routes following historic field boundaries. As such, while I have not been presented with any evidence that the site is within any mapped areas categorising level of flood risk, the evidence indicates localised risks arising from surface water flooding which could affect both the proposed development and neighbouring properties.
19. In many circumstances, details of proposed measures for drainage of surface water can be effectively secured by means of planning conditions and other regulatory regimes. However, in this case further investigations would be required to confirm the extent of land affected by surface water flooding and the underlying cause, to inform consideration of whether the proposed siting would be acceptable in principle and assess the potential consequences for increasing surface water flooding elsewhere. The application was not accompanied by a flood risk assessment or otherwise supported by evidence confirming that any risks arising from these issues can be adequately addressed. There is also no evidence that a sequential test has been undertaken, to identify options for locating the proposed bungalow away from the part of the site area affected or on a sequentially preferable site.
20. For the above reasons, on the basis of the information before me, I am not satisfied that the proposed development would comply with national planning policy which seeks to steer new development away from areas at the highest risk of flooding. As such, it conflicts with Policy CS15 of the Core Strategy and relevant paragraphs of the Framework. These policies require, amongst other things, that new residential development is directed away from areas at risk of flooding from all sources and avoids increasing flood risk elsewhere.

Other Matters

21. The fourth reason for refusal identified that the proposed development would be likely to have a significant effect on Habitats Sites in the Solent, due to increased recreational pressure and effects on the water environment. The Council's evidence indicates that mitigation of likely significant effects on Habitats Sites could be secured through an appropriate Unilateral Undertaking linked to strategic mitigation measures. No such Undertaking is before me, although there is evidence indicating that the appellant is willing to enter into an appropriate mechanism to address this matter.
22. Had I been minded to allow the appeal, it would have been necessary to complete an Appropriate Assessment to determine whether the appeal proposal would result in a significant effect, either alone or in combination with other development, on Habitats Sites. However, since I am dismissing the appeal for other reasons, as set out above, it is not necessary to continue with the Appropriate Assessment process or address the effect of the proposed development on Habitats Sites in any further detail.

Planning Balance

23. The Council has a shortfall in its supply of deliverable housing land. The Council's evidence quotes a figure of 3.9 years as at November 2021 and I have been provided with no alternative figures.

24. Due to the above shortfall, the development plan policies which are most important for determining the application are deemed to be out of date. However, the main focus of Policies CS15 and CS16 is securing good design and directing development away from areas at risk of flooding. These remain substantially consistent with the Framework when read as a whole, including its focus on achieving well-designed places which are visually attractive, safe and promote a high standard of amenity for existing and future users.
25. Even if it had been demonstrated that potential harm to biodiversity was fully addressed through mitigation measures, the proposed development would result in harm to the living conditions of adjacent occupiers, lack of adequate living conditions for future occupiers and harm to the character and appearance of the area. There is furthermore a lack of convincing evidence that development would be steered away from areas at risk of flooding. Taken collectively, I attribute significant weight to these multiple harmful aspects of the development and the associated conflict with the development plan.
26. The proposed development would provide single storey accommodation, which could contribute to the supply of more accessible housing, in an area which the appellant identifies as having a higher than average concentration of retired residents. However, since it would provide only a single dwelling providing modest, one bedroom accommodation, the contribution to the overall shortfall in housing land supply would inherently be limited.
27. The proposal would make more efficient use of previously developed land in an urban area. However, the Framework makes clear that such efficiency should not be at the expense of securing well-designed, attractive and healthy places. I have therefore given this aspect of the proposed development limited weight.
28. The site is served by an existing access and there are no clearly identified highway safety or capacity issues. However, these are neutral factors which do not weigh for or against the proposal.
29. In conclusion, the benefits associated with the proposed development are very modest in scale and I have accordingly given them limited weight. Set against those benefits are multiple harmful aspects, to which I have collectively given significant weight. Given the harm that I have identified, I conclude that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Conclusion

30. For the reasons given above, having had regard to the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Jane Smith

INSPECTOR