



Appeal Decision

Site visit made on 27 February 2023

by James Blackwell LLB (Hons) PGDip

an Inspector appointed by the Secretary of State

Decision date: 05 April 2023

Appeal Ref: APP/W1715/W/22/3298399

46 St Margarets Road, Bishopstoke SO50 6DH

- 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 & Mrs Penson against the decision of Eastleigh Borough Council.
 - The application Ref F/21/91880, dated 5 November 2021, was refused by notice dated 23 March 2022.
 - The development proposed is erection of 1 no. single storey detached 3-bedroom dwelling with separate detached garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since determination of the appeal application, the Eastleigh Borough Local Plan (2016-2036) (Local Plan) has been adopted. The relevant policies in the Local Plan therefore carry full weight in the determination of this appeal. Saved policies of the Eastleigh Borough Local Plan Review (2001-2011) have also been superseded following adoption of the Local Plan.

Main Issues

3. The main issues in this appeal are the effect of the proposed development on:
 - the character and appearance of the area;
 - the integrity of the Solent and Southampton Water Special Protection Area; and
 - the living conditions of neighbouring occupiers.

Reasons

Character and Appearance

4. The appeal site comprises a large parcel of land to the rear of nos. 46 and 48 St Margarets Road. St Margarets Road is a residential cul-de-sac made up of a variety of house types, including detached, semi-detached and terraced dwellings. Properties also vary in terms of height and design.
5. Irrespective of these differences, the dwellings along the northern side of the road follow a clear linear arrangement, with active frontages facing the road. These dwellings benefit from substantial back gardens, which gives a distinct sense of openness to their rear. This openness is complemented by the

verdancy of the woodland which flanks the road to the west, as well as the tall and mature trees which separate these rear gardens from the built development to the north. These characteristics are readily apparent in glimpsed views between houses along the road, and contribute positively to the overarching character of the area.

6. The proposal would introduce a new dwelling on the land to the rear of nos. 46 and 48, which would be accessed via a track running alongside no. 48. This would lead to a tandem form of development, which would juxtapose with the established linear pattern of houses along this section of St Margarets Road. The new house also would lack any direct frontage or relationship with the road, an arrangement which would be at odds with the closest neighbouring dwellings. These incongruities would disrupt the clear grain of residential built form which typifies this part of the road, which would be harmful to its prevailing character.
7. The introduction of a separate dwelling in this location would also erode the distinct sense of openness which is attributed to the gap between the dwellings along the northern side of St Margarets Road, and the built form, including the retirement village, to the north. This loss of openness would result not only from the physical built footprint of the new house, but also from the parking spaces and other areas of hardstanding in and around the property. This loss of openness would undermine the verdant quality of the land in this location, which would again harm its overarching character.
8. Whilst I acknowledge there are outbuildings in some of the rear gardens of the properties along the northern side of St Margarets Road, these buildings are generally ancillary in nature, and clearly subservient to their host dwellings. In turn, they integrate more effectively within their surrounding context, as their character is more closely aligned with the garden nature of this land.
9. On account of these factors, the development would harm the character and appearance of the area. It would conflict with Policy DM1 of the Local Plan, which says new development should take full and proper account of the site, including the character and appearance and land uses of the locality or neighbourhood. It should also be well integrated in terms of mass, scale, layout, design and siting, both in itself, and in relation to adjoining buildings, spaces and views. The development would also conflict with the overarching design and character principles set out in the Quality Places SPD (2011).

Protected Sites

10. The proposed dwelling would likely lead to an increase in nitrogen levels entering the Solent via wastewater treatment works, which has the potential to adversely affect the conservation objectives of the Solent and Southampton Water Special Protection Area (SPA).
11. The appellant has indicated a willingness to make a financial contribution towards the Council's nitrate mitigation scheme, which would conceivably secure appropriate mitigation in this regard. However, no planning obligation has been submitted as part of this appeal to secure this payment. Without appropriate mitigation, I cannot rule out likely significant adverse effects on the integrity of the SPA. This matter could not be suitably addressed by condition, as mitigation should be secured before planning permission is granted.

12. Without mitigation, the development would conflict with Policy DM11 of the Local Plan, which seeks to ensure new development protects, conserves and enhances all international, national and local conservation designations, as well as networks of natural habitats and features, including watercourses and wetland complexes.
13. For completeness, as I am dismissing the appeal on other grounds, an appropriate assessment under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended), is not required.

Living Conditions

14. As mentioned, the proposed development would be accessed via a track which runs between nos. 48 and 50, which is already used to access the woodland to the rear of the site. Whilst I acknowledge the proximity of the track to the windows on the side elevation of no. 48, the occupiers of no. 48 will already experience a degree of noise and disturbance from these associated vehicle movements. A Lawful Development Certificate (ref LDC/22/92715) has also been issued by the Council in respect of a garage/workshop which is accessed by this track, which will invariably proliferate vehicle movements alongside this property.
15. Given the extant situation, the additional vehicle movements that would arise in connection with the new dwelling would be unlikely to make a material difference to the extent of noise and disturbance experienced within no. 48. In turn, I am satisfied that the development would not cause unacceptable harm to the living conditions of the occupiers of this property. In terms of no. 50, whilst the same is also true for this dwelling, a tall fence is proposed alongside its boundary, which should protect its occupiers from any noise or disturbance arising from the vehicle movements associated with the proposal.
16. For these reasons, I am satisfied that the development would not cause undue harm to the living conditions of the occupiers of nos. 48 and 50 St Margarets Road. In this regard, the development would be consistent with Policy DM1 of the Local Plan, which seeks to ensure development does not have an unacceptable impact on the residential amenity of new or existing residents.

Other Matters

17. Following adoption of the Local Plan, the appeal site now lies within a defined urban area, where the principle of residential development may be acceptable. Nonetheless, the backland nature of the proposal would jar with the openness of the land to the rear of houses along the northern side of St Margarets Road, which would harm the open and verdant character of the area. Without mitigation, the proposal would also risk harm to the integrity of the SPA. Irrespective of the principle of residential development in this location, the proposal would therefore conflict with the development plan as a whole.
18. During the Local Plan process, the Council considered whether the land to the rear of St Margarets Road may be suitable for residential development. However, this consideration was based on a comprehensive redevelopment of the land, as opposed to the ad hoc development of individual homes. In any event, this land ultimately failed the achievability test, and was not taken forward as an allocated site in the Local Plan. In turn, this factor carries limited weight in my decision.

19. Whilst I appreciate that the appeal site is situated within the context of taller buildings forming part of the retirement community to the north of the site, this factor does not eradicate the importance of the site to the open and verdant gap between the houses along St Margarets Road, and the built form further north. Indeed, the openness and verdancy attributed to this gap contributes positively to the overarching character of the area.

Conclusion

20. The development would conflict with the development plan as a whole and there are no other considerations, including the provisions of the National Planning Policy Framework (2021), that outweigh this finding. Therefore, for the reasons given, the appeal should be dismissed.

James Blackwell

INSPECTOR