



Appeal Decision

Site visit made on 18 April 2023

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th July 2023

Appeal Ref: APP/M1710/W/22/3296797

Land West of Oak Leigh, Park Lane, Ropley, Alresford SO24 0EH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Frank Branagan against the decision of East Hampshire District Council.
 - The application Ref 55567/022, dated 31 May 2021, was refused by notice dated 23 November 2021.
 - The application sought permission for 'Detached dwelling Plot 5' without complying with a condition attached to planning permission Ref 55567/018, dated 15 December 2020.
 - The condition in dispute is No 16 which states that: *The development hereby permitted shall be carried out in accordance with the following approved plans and particulars: The original approved drawings on reference 55567/009, as amended by the drawings below. Application form, Covering letter/statement, BRAN01 Issue B – plot 5 site plan.*
 - The reason given for the condition is: *To ensure the provision of a satisfactory development.*
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Decision

1. The appeal is allowed and planning permission is granted for 'Detached dwelling, variation to that approved under 55567/003 (plot 5)' at Land West of Oak Leigh, Park Lane, Ropley, Alresford SO24 0EH, in accordance with the application Ref 55567/022 dated 31 May 2021, without compliance with condition number 16 previously imposed on planning permission Ref 55567/018 dated 15 December 2020, and subject to the conditions within the attached schedule.

Preliminary Matters

2. Planning permission reference 55567/012 granted full planning permission authorising the construction of a chalet bungalow style dwelling on the appeal site. Notwithstanding that 2 different decision notices were issued, given that the original decision notice has not been formally quashed, it remains the lawful decision, and for the purposes of this appeal, it is the original planning permission.
3. The effect of 55567/018 was to create a second permission for the development granted by the original planning permission. Therefore, the description of development needed to reflect that. To ensure lawfulness and in the interests of both clarity and certainty, I have reverted to the description of development described on the original planning permission, and used this in my formal decision.

4. The evidence indicates that an effect of the granting of the planning permission under 55567/018 was to reduce the plot size from that subject of the original permission.
5. Notwithstanding any submitted evidence to the contrary, I proceed on the basis that the appeal site comprises the land outlined in red on the submitted site plan – drawing reference 19-RPL5-02 Rev B.
6. During my site visit, I witnessed what appeared to be a concrete footing within the site. Both main parties agree that the development authorised by planning permission reference 55567/018 has been lawfully commenced. In the absence of any cogent evidence to the contrary, I proceed on this basis.
7. The purpose of the application was to enable amended plans to be considered. The application form indicates that the condition to which this appeal relates is condition 17 of 55567/018. However, the plans condition on 55567/018 is condition 16. I, therefore, continue on the understanding that this appeal seeks consent for amendments to the development authorised and limited by condition 16 of 55567/018.
8. Both main parties have confirmed their agreement in respect of the condition to which this appeal relates and the description of development.

Main Issue

9. The main issue is the effect that the varying of the plans condition would have on the character and appearance of the area.

Reasons

Character and appearance

10. The appeal site is accessed off a narrow and mainly hedgerow-bordered lane, and it has open fields to the rear. Despite the presence of a fair number of existing dwellings, which often address the roads from which they are accessed, the area has a pleasant, relatively rural and verdant character and appearance. The appeal site comprises the closest of 5 residential plots or properties to existing residential development on the junction between Park Lane and Petersfield Road.
11. The 5 plots/properties are arranged in a linear pattern addressing and sharing a single access onto Park Lane. Together with the dwellings at Bullfinches and Amberley, they form a frontage of residential development onto Park Lane. From the evidence and my observations on site, the detached houses on plots 1 – 4, which are either constructed or in the process of being constructed, and the houses closest to the junction between Park Lane and Petersfield Road, are of a relatively substantial bulk and massing.
12. When travelling along Petersfield Road away from the junction in a westerly direction, the properties, which include the bungalow at Moulin (which shares a common boundary with the appeal site), are more typically single-story. However, these properties and Amberley are experienced as part of a separate frontage from that of the appeal site.
13. Through this appeal, consent is sought to amend the design of the sizable chalet bungalow-style dwelling which was authorised by the grant of the original planning permission. The proposed changes to the design of the

dwelling, would increase the massing of the property. However, the overall proportions of the building would not be significantly altered, and the resultant dwelling would not appear unbalanced.

14. From those locations within Park Lane from which it would be visible, the ridge height of the dwelling would appear to be between that of the neighbouring houses at plot 4 and Bullfinches. In respect of its height and scale, the dwelling would therefore continue to act as a visual transition between the buildings at plots 1-4, and the dwellings, including those which are single-storey, to the north.
15. The development would be higher and slightly more dominant than that already authorised. However, the changes would be barely perceptible from locations within Petersfield Road. This is because of; the general proximity of the houses to each other within the Petersfield Road frontage; the presence of intervening hedgerows and trees; the decent separation distance between the houses within Petersfield Road and the proposed dwelling; and the relatively level topography within the area.
16. Consequently, the proposed development would not have a harmful visual relationship with the bungalows to the north of the site, when viewed from the public realm within either Park Lane or Petersfield Road.
17. For the reasons given above, the varying of the plans condition would not be harmful to the character and appearance of the area. Consequently, and in this respect, the development would comply with Policy CP29 of the East Hampshire District Local Plan: Joint Core Strategy dated 2014 and Policy RNP12 of the Ropley Neighbourhood Plan dated 2019. These policies seek to ensure that the design of new development is of a high-quality, that respects the area's particular characteristics, including the scale, height and massing of existing residential development in the immediate locality. It would also comply with paragraphs 135 and 130. f) of the National Planning Policy Framework (the Framework) which seek to ensure that the quality of approved development is not materially diminished between permission and completion and, that a high standard of amenity is provided for existing and future users.

Other matters

18. Concern has been raised that the appellant has sought to manipulate the planning system to secure a larger dwelling. However, there is no substantive evidence before me demonstrating this. Furthermore, the development subject of this appeal has been determined on its own merits.

Conditions

19. For clarity a plans condition is imposed which identifies the plans to which this permission relates.
20. Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the 55567/018 permission, I shall impose all those that I consider remain relevant.

Conclusion

21. For the reasons given above and having regard to the development plan as a whole and other relevant material considerations, I conclude that this appeal should be allowed.

V Simpson

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 19-RPL5-02 rev B, 19-RPL5-03 rev C, 19-RPL5-04 rev B, and 19-RPL5-05 rev B.
- 2) The external facing and roofing materials shall be as approved by the Local Planning Authority on permission reference 55567/005. The development works shall be carried out in accordance with the approved details.
- 3) The development of this site shall be carried out in accordance with the details contained within Construction Method Statement approved on permission reference 55567/003. Demolition and construction work shall only take place in accordance with the approved method statement.
- 4) The existing and proposed ground levels, proposed finished floor levels, levels of any paths, drives, garages and parking areas and the proposed completed height of the development and any retaining walls shall be as approved by the Local Planning Authority in relation to planning permission reference 55567/005 on 31 October 2018. The development thereafter shall be carried out in accordance with the approved details.
- 5) The measures approved on planning permission reference 55567/005 with regard to the use of on-site renewable or low carbon energy, shall be fully implemented during construction of the development.
Before any part of the development is first occupied a verification report and completion certificate shall be submitted in writing to the Local Planning Authority confirming that the built development hereby permitted has been constructed in accordance with the approved scheme.
The developer shall nominate a competent person for the purpose of assessing and providing the above required report and certificate to confirm that the completed works incorporate such measures as to provide these requirements. The measures shall thereafter be retained and maintained to the agreed Specification for the lifetime of the development.
- 6) Prior to the first occupation of this dwelling, the drainage scheme as approved on permission reference 55567/003 shall be fully implemented. The development shall be carried out in accordance with the approved

details and completed before any part of the development is first occupied and shall be retained thereafter.

Note: Details of the responsibility for the maintenance of the drainage system should be provided prior to the first occupation.

- 7) The proposed hard surface/s shall either be made of porous materials or provision shall be made to direct run-off water from the hard surface/s to a permeable or porous surface within the site.
- 8) The lines of site at the access from the site to Park Lane, of 2.4 metres by 33 metres shall be kept free of any obstruction exceeding 1 metre in height above the adjacent carriageway and shall be subsequently maintained so thereafter.
- 9) Before the dwellings hereby permitted are first occupied provision for parking shall have been made within the site in accordance with the approved plans and shall be retained solely for parking purposes thereafter.
- 10) Before any part of the development is first occupied or brought into use (unless otherwise first agreed in writing by the Local Planning Authority) a verification report demonstrating the effectiveness of the remediation works carried out and a completion certificate confirming that the approved remediation scheme has been implemented in full shall both have been submitted to and approved in writing by the Local Planning Authority. The verification report and completion certificate shall be submitted in accordance with the approved scheme and undertaken by a competent person in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.
- 11) The landscaping scheme for the site as approved on permission reference 55567/003, shall be carried out in the first planting season after practical completion or first occupation of this development, whichever is earlier, unless otherwise first agreed in writing by the Planning Authority. This should include replanting of any hedgerow that has to be removed to improve visibility splays at the access of the site to Park Lane. Any trees or plants which, within a period of 5 years after planting, are removed, die or become seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved unless otherwise first agreed in writing by the Planning Authority.
- 12) The development hereby approved shall not be first brought into use until a detailed boundary treatment plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include details of the positions, design, materials/species of the boundary treatments to be erected/planted. The approved details shall be fully implemented before the use of the development is commenced and/or any part of the development is occupied and shall be retained thereafter. You are advised that a secure fence should be provided on the southern boundary of the site.
- 13) Notwithstanding the provisions of The Town and Country Planning (General

Permitted Development) Order 2015 (as amended) (or any Order revoking and re-enacting that Order) no development falling within Class/es A to E of Part 1 of Schedule 2 shall be carried out without the prior consent of the Planning Authority, through submission of a formal planning application.

- 14) The gas impermeable membrane shown on drawing 18-RP3 WKdi received 17/10/2018, and approved by the Local Planning Authority on permission reference 55567/005 on 31 October 2018, shall be fully implemented during the construction of the development hereby approved.
Any services entering/leaving the structure shall be located above the gas impermeable membrane, or adequate seals provided to ensure the membrane is not breached. The works shall be undertaken in accordance with the approved details.
- 15) Development shall proceed in accordance with the ecological mitigation, compensation and enhancement measures detailed within the Ecological Constraints and Opportunities Assessment (Enims, June 2014), submitted with application reference 55567/002.

End of conditions.