



Appeal Decision

Site visit made on 23 April 2024

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 May 2024

Appeal Ref: APP/B1740/W/23/3328632

Land at 25 Woodvale Gardens, New Milton BH25 5EE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Kelsey against the decision of New Forest District Council.
 - The application Ref is 23/10256.
 - The development proposed is new end of terrace dwelling and associated parking.
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Decision

1. The appeal is dismissed.

Preliminary Matter and Main Issues

2. During the course of the appeal a signed Unilateral Undertaking under S.106 of the Town and Country Planning Act 1990 (as amended) was submitted to mitigate any effects from the proposal on the New Forest Special Area of Conservation, the New Forest Special Protection Area, the New Forest Ramsar site, the Solent and Southampton Water Special Protection Area, the Solent and Southampton Water Ramsar Site and the Solent Maritime Special Area of Conservation. The Council have confirmed that this satisfactorily addresses the third reason for refusal, and as I have no reason to disagree, it does not form a main issue in the consideration of the appeal.
3. In light of the above, the main issues are:
 - the effect of the proposed development on the character and appearance of the area, and
 - the effect of the relationship of the proposed development to trees.

Reasons

Character and appearance

4. The appeal site comprises an enclosed area of land to the side of number 25 Woodvale Gardens. The site also adjoins a block of three single-storey garages with the appeal site providing relief between the terrace of houses and the garages. Together with similar gaps elsewhere within the cul-de-sac, the gaps assist in providing visual breaks between the two-storey built form.
5. The site is viewed in association with the general pattern of development on Woodvale Gardens that is a cul-de-sac characterised by two and three-storey terraced houses of a uniform width. The three-storey houses include undercroft parking and are positioned on the eastern side of the cul-de-sac with the

remainder of the terraces two-storey without undercroft parking. Although the terraces are set at different angles, they each benefit from uniform front building lines.

6. As well as being of a uniform width with individual building lines, the two-storey terraces are fairly consistent in appearance using similar facing materials. The dwellings have consistently sized window openings at first floor above white cladding that separates them from similar ground floor window arrangements adjoining front porches. The terrace to which the appeal dwelling would be attached have further white cladding/panels below the ground floor windows.
7. The appeal proposal would introduce a new dwelling at the end of the terrace providing a terrace of five to match the five forming the terrace comprising numbers 4-8 Woodvale Gardens. However, the proposed dwelling would be considerably narrower than number 25 Woodvale Gardens and the other dwellings in the cul-de-sac, with a different ground floor window arrangement, no white cladding/panels below the windows and no front porch. Furthermore, it would be set back from the front elevation of the terrace and as a result would not follow the building line created by the terrace to which it would adjoin. There are no other similar subservient dwellings or extensions to the end of this terrace, or the other terraces, that would justify the breaking of the main building line. Consequently, the proposed dwelling would appear incongruous and at odds with the prevailing built form within the cul-de-sac.
8. As stated above, the proposed dwelling would be located in close proximity to the block of three garages to its southern boundary. By virtue of the close relationship and full two-storey height of the dwelling, this would result in a cramped layout and relationship that would draw undue attention to the above differences between the proposed dwelling and the existing terraces. Should the garage/store/office building consented¹ to the rear of the garages also be constructed, the proposal would also be in close proximity to this. Due to their close relationship and heights, this would result in the appeal proposal appearing cramped alongside the existing garages and the new garage/store/office that would be visible above the existing garage block.
9. The built form above the existing site boundary fencing at first floor and roof levels would impact upon the existing sense of openness and spaciousness around the garage block to a small degree. However, this would not result in a harmful closing of the spatial gap between numbers 8 and 25 Woodvale Gardens given that the remaining gap would be much greater than the other gaps between terraces and remaining sense of openness and spaciousness above the garage and to the side of number 8.
10. There is off-street parking to the front of the three-storey houses, and to the front of number 25 Woodvale Gardens that extends across the front of the appeal site providing an active frontage. As a result, the continued presence of parking on the hard surfacing to the front of the appeal site in conjunction with the new dwelling would continue the existing active frontage and would not be any more incongruous or harmful in itself.
11. It follows from the above that I conclude that the appeal proposal would cause significant harm to the character and appearance of the area. It would respond

¹ 21/11313

poorly to local distinctiveness and result in significant harm to the visual qualities of the area. Accordingly, the development would be contrary to Policy ENV3 of the Local Plan 2016-2036 Part One: Planning Strategy New Forest District outside the New Forest National Park (July 2020) (LP) and the New Milton Local Distinctiveness Supplementary Planning Document (June 2010) (SPD). Amongst other things, these seek to ensure that all development achieve a high quality design that contributes to local distinctiveness, quality of life and enhances the character and identity of the locality and reinforce local character and distinctiveness.

Relationship to trees

12. The proposed dwelling would be located in close proximity to a group of protected oak trees to the rear of the site. The appellants report 'BS5807 2012 Trees in Relation to Design, Demolition and Construction' (Tree Report) identifies an A graded mature Oak tree and a number of Cypress Lawson trees close to and overhanging the appeal site. These trees form part of a group that extend along the rear of the terrace adjoining the appeal site.
13. Due to the scale and positioning of the trees close to and overhanging the site they provide an attractive verdant setting to the rear part of the site and wider area. The trees would also provide a verdant setting to the proposed dwelling and its rear garden.
14. I note that the dwelling would be constructed outside of the root protection area of the trees in accordance with the Tree Report. Although a number of the canopies to the trees would overhang the appeal site, the canopies would not overhang all of the rear garden. The resulting area not covered by canopy spread would be usable, with the garden area larger than neighbouring gardens and enable adequate sun-light to reach the rear garden for suitable periods of the day as demonstrated by the appellant's Tree Shading Assessment. Although there would be some overshadowing of the garden, and a need to prune the trees in the future for the benefits of future and existing occupiers, this need not go beyond regular maintenance given the extent of garden not falling under the canopy spread and given that it would result in a similar arrangement to the remainder of the terrace. The degree of canopy cover would not be to an extent that would unacceptably dominate the rear garden.
15. I have had regard to the Council stating that replacement trees are needed as a result of consents to fell trees in 2018 (TPO/18/1187) and 2020 (TPO/20/0552). However, I have limited details before me in relation to the location within number 24 Oakwood Avenue they should be planted. Furthermore, I note that any replacement trees can be at minimum stock size 8-10cm girth at 1m above ground level in the same vicinity. As a result, and given the existing tree planting and consent for the garage/store/office, any replacement planting is unlikely to be effected by the proposal or impact harmfully on the proposed dwelling.
16. To conclude on this matter, the relationship of the proposed development to trees would be acceptable. As such, the proposal would not conflict with Policy ENV3 of the LP. Amongst other things, this seeks to ensure that all development achieves high quality design, are sympathetic to the environment and their context in terms of landscape features and avoid unacceptable shading.

Other Considerations

17. The provision of one parking space, a suitable access, good accessibility to services and facilities, and lack of harm to the living conditions of nearby occupiers, flood risk and biodiversity are neutral factors in my consideration as they are requirements of local and national planning policy.
18. My attention has been drawn to other planning decisions in the area² and to another appeal decision³. However, I have limited information in relation to the other planning decisions and appeal to be able to determine whether they are directly comparable to the appeal proposal. Furthermore, I am required to consider the appeal on its merits.
19. Although I have found no harm to the living conditions of future occupiers with regard to the relationship to trees, the development would harm the character and appearance of the area. The relevant policy in this regard is largely consistent with the Framework where it states that planning decisions should reflect the character of an area and create well-designed and beautiful places. Therefore, the proposed development would be contrary to the development plan as a whole and I give significant weight to the conflict with this policy.
20. The Council cannot demonstrate a five-year supply of deliverable housing sites. The submitted Unilateral Undertaking provides adequate mitigation in relation to assets of particular importance under paragraph 11 d) i. of the Framework. Consequently, the provisions of paragraph 11 d) ii. of the Framework should be applied. The appeal proposal would provide a number of benefits, including providing a much-needed energy efficient house of a small scale which would contribute towards the supply and mix of housing in the area with good accessibility to services and facilities. It would bring forward a small site making a more efficient use of land.
21. However, given the small scale and nature of the development, the benefits would be limited. In contrast, I have found that the appeal proposal would result in significant harm to the character and appearance of the area. Accordingly, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.

Conclusion

22. Although I have found no harm with regard to the relationship of the proposal to trees, it would harm the character and appearance of the area. In my view, this is the prevailing consideration, and the proposal should be regarded as being in conflict with the development plan, when read as a whole.
23. Material considerations, including the Framework do not indicate that the proposal should be determined other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude the appeal should be dismissed.

C Rose

INSPECTOR

² 20/10662, 20/10188, 18/11490

³ APP/B1740/W/29/3228054