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# Appeal Decision

Site visit made on 26 April 2024

**by R J Redford MTCP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 May 2024**

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**Appeal Ref: APP/X1735/W/23/3328946**

**Land adjacent to 27 Emsworth Road, Havant, Hampshire PO9 2SN**

- 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 Brian Long against the decision of Havant Borough Council.
  - The application Ref is APP/22/01194.
  - The development proposed is the erection of one two-storey building comprising two studio apartments (Use Class C3) with associated hard landscaping.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The National Planning Policy Framework (the Framework) was updated in December 2023. However, the sections pertinent to this appeal have not changed to such an extent as to affect the matters raised by the main parties. It has not therefore been necessary to seek their views, accordingly the revised version has been referenced in this decision.

## Main Issues

3. The main issues are the effect of the proposed development on the character and appearance of the area; whether the proposed development would provide appropriate living conditions for future occupants with specific regard to outlook, access to natural light and external space; and the effect of the proposal on the Solent European Sites.

## Reasons

### *Character and appearance*

4. The appeal site is located on a part of Emsworth Road which is characterised by larger detached buildings, predominantly used for residential purposes. They are separated from each other by areas of landscaping and set back from the road behind private frontages and highway verges. This creates a pleasant cadence to the road and a verdant setting.
5. The appeal site is situated between The Wheelwright's Arms, 27 Emsworth Road (the pub) and Bernard Powell House (BPH). The pub, a large detached two-storey building, is a focal point within the street scene. This is due to its design, position closer to the road, and the space on either side between it and the next building. BPH appears a later addition in the street scene and follows the established building line so is set back from the pub.

6. To the front of the appeal site is a grassed area dominated by a large billboard and beyond that Emsworth Road. To the rear of the site is a gravelled area used for the amenity of the occupants of BPH which is separated by a brick wall from the rear gardens of the properties beyond.
7. The billboard between the appeal site and Emsworth Road, although large is visually separate to the buildings on either side and does not compete with their two-storey height. Its near two-dimensional form also allows appreciation of the spatial separation between the pub and BPH as well as allows glimpsed views of the gardens to the rear, ensuring the overall cadence and verdant setting of this part of Emsworth Road is not harmed.
8. The proposal would erect a two-storey dwelling that would be the width of the appeal site. This would infill the space between the pub and BPH which would create a near continuous block of development. The loss of space between BPH and the pub, and the loss of views through to the gardens beyond the appeal site would have a detrimental effect on the character and appearance of the road and impinge on the spacious setting of the pub thus harming its position within the street scene.
9. The proposed building would be set back behind the pub to reduce its visual impact, but it would not align with BPH. Therefore, the lack of cohesive building line would draw attention to the proposal and in combination with the billboard would create a disproportionately dominant feature within this part of Emsworth Road.
10. It is acknowledged that there are other examples where the frontage of a building is obscured by a physical obstruction between it and the road, and in isolation the proposed building is of adequate design. However, these factors do not negate the loss of space between the pub and BPH, and lack of cohesion with the cadence of the street scene.
11. Consequently, the proposal would harm the character and appearance of the area and would fail to comply with Policy CS16 of the Havant Borough Core Strategy (CS) insofar as it seeks new development to respect the local context. It would also fail to comply with the guidance within the Council's Design Guide Supplementary Planning Document, in relation to its requirements for new development to respect the layout and character of the surrounding area.

#### *Living conditions*

12. The proposal would constitute 2 studio apartments with shared pedestrian access from Emsworth Road. Both apartments would have a singular canted front window angled towards the boundary wall and side elevation of the pub. The ground floor (gf) apartment would have access via a patio window into a courtyard which would be enclosed on all sides by 1.8m solid fencing, according to the plans. Directly above the proposed courtyard is a similarly proportioned balcony to provide outdoor space for the proposed first floor (ff) apartment. The plans show the rear courtyard and balcony would equate to 8sqm each.
13. The outlook from the front window of the gf apartment would be limited to the rear of the billboard and the pub's boundary wall, and due to their height, along with the potential of this small space being cluttered by the bins and cycle storage related to the ff flat, the outlook from this window would be

confined and oppressive. To the rear the outlook from the gf apartment would again be heavily compromised by the proximity of the proposed fence and the proposed balcony directly above. Therefore, the outlook from the proposed ground floor apartment would be heavily restricted and so would create an enclosed and constrained living environment for any future occupants.

14. As with outlook the proximity and height of the billboard, the pub, its boundary wall, and the proposed fence, and the location of the proposed balcony it is likely the gf apartment would also have very restricted access to natural light. Daylight would be limited to that which could be accessed through the slim gap between the proposed fencing and balcony above to the rear; and from above the billboard and pub wall to the fore.
15. The proposed rear courtyard, and accordingly the rear facing patio window within the gf apartment is also unlikely to have any meaningful access to sunlight due to its northerly orientation and the proposed balcony above. Therefore, access to sunlight would be limited to the proposed front window. The appellant's shadow studies show that the billboard will shadow that window for a proportion of the early afternoon, and it is noted that the studies do not take account of the pub and its boundary wall, which due to their proximity, height, and mass, are likely to further impinge on any available sunlight. Accordingly, it is unlikely that the proposed gf apartment would have adequate access to sunlight.
16. Consequently, I do not consider that there would be acceptable access to natural light for any future occupants of the proposed gf apartment and this would be harmful to their living conditions.
17. It is acknowledged that the ff apartment would have a more acceptable outlook albeit above the pub's outdoor area and the billboard, and the proposed balcony would have a more open aspect with the front and rear windows less effected by shadowing. Thus, it is likely there would be an adequate outlook and access to natural light for any future occupants. However, this does not negate the unacceptably enclosed and insular living environment the proposed gf apartment would have due to a lack of outlook and access to natural light.
18. Turning to the external space, it is accepted that 8sqm and the proposed dimensions of the balcony and courtyard would be acceptable for the size of the proposed apartment and in compliance with the SPD's physical requirements. Also, any associated noise or smells due to the proposal's proximity to the pub would be known by any future occupants prior to occupation. However, the lack of any meaningful natural light to the courtyard would not make this space attractive nor particularly functional and therefore would not constitute acceptable external space for any future occupants of the proposed gf apartment.
19. My attention has been drawn to a planning permission at 44-54 West Street and a planning appeal at 57 London Road. On review of these schemes, I do not find them directly comparable to that which is before me. Nevertheless, they do serve to confirm that each case should be considered carefully on its own merits.
20. Therefore, for the reasons given above the proposed development would fail to provide appropriate outlook, access to natural light and external space for future occupants of the proposed gf apartment, which cumulatively would have

a significantly detrimental impact on their living conditions. Accordingly, it would fail to comply with CS Policy CS16 insofar as it seeks to create places where people want to live.

### *Solent European Sites*

21. The appeal site falls within the 5.6km buffer of the Chichester Harbour Special Protection Area (SPA), one of the Solent European Sites. Regulation 63 of the Conservation of Habitats and Species Regulations 2017 require an appropriate assessment to ensure that the development would not adversely affect the integrity of the SPA. Due to its qualifying features the SPA is susceptible to harm from recreational pressures as well as eutrophication within water environments from excessive nutrients.
22. The additional dwellings proposed, whilst minimal on their own, would contribute to an increased population in combination with other plans, projects, and developments in the area. Given the proximity of the development to the SPA, it is likely that its contribution to the increase in population could lead to an increase in recreational pressure as well as the amount of nutrients discharged into the water environments. Therefore, it cannot be concluded that the development would not adversely affect the integrity of the protected sites in combination with other projects.
23. However, the Council have long-standing mitigation strategies in place which can offset the impact of new development on the SPA, and it has confirmed that impact from the proposal could be mitigated by a financial contribution to these strategies. The appellant has submitted a signed unilateral agreement to confirm payment of these contributions and the Council have subsequently confirmed receipt of the contributions.
24. Based on the evidence before me, I am satisfied that such contributions would be necessary to make the development acceptable in planning terms and are fairly and reasonably related in scale and kind to that proposed. It follows that the effects of the proposals on the SPA would be sufficiently mitigated by the secured financial contributions so that no harm to its integrity would result if planning permission were to be granted.
25. The proposal would therefore comply with CS Policies CS11 and CS21, and Policy DM24 of the Council's Local Plan Allocations Plan insofar as they seek to protect SPAs and where necessary mitigation secured.

### **Other Matters**

26. Concerns have been raised in relation to the privacy of the gardens of the properties behind the appeal site. Due to the garden sizes, the intervening wall, and the existing level of overlooking from surrounding properties, the proposal would not increase overlooking to such an extent as to make the use of the rear garden untenable.
27. The proposal would not provide any on-site parking. However, the location of the appeal site would ensure adequate transport options for future occupants and as parking on adjacent roads is already restricted, any additional vehicles would not impact the existing on-road parking provision.

## **Housing Balance**

28. The Council's current housing land supply is 1.81 years, and as the appeal site is not within a protected area nor includes assets of particular importance, it would be necessary to apply paragraph 11d) ii) of the Framework.
29. It is noted that the Framework seeks to boost the supply of homes and make more efficient use of land in accessible locations. The appellant has interchangeably defined the appeal site as previously developed and brownfield, however this designation has not been clearly evidenced. Nonetheless, the proposal would provide a net increase of 2 homes in a reasonably accessible location in a residential area and does not conflict with the local plans strategic land use policies. Along with the contribution the proposal would have to the Council's 5-year housing land supply and continued housing supply deficit, these benefits would attract moderate weight based on the number of dwellings involved.
30. The lack of harm to the European Protected Sites, trees with biodiversity features, and flood risk is recognised. As is the lack of harm identified in relation to occupants of neighbouring properties and highway safety, regarding on-road parking. In relation to the planning balance however, an absence of harm is neutral neither weighing for or against the proposal.
31. Nevertheless, housing provision should not come at the cost of good design or cause significant harm to the living conditions of future occupants, a position supported by paragraph 135 of the Framework. Consequently, when weighed against the policies in the Framework taken as a whole, I find that the adverse impacts of granting planning permission would outweigh the proposed benefits.

## **Conclusion**

1. For the reasons given above the appeal scheme would comply with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. The appeal is, therefore, dismissed.

*RJ Redford*

INSPECTOR