



Appeal Decision

Site visit made on 4 June 2024

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 June 2024

Appeal Ref: APP/B1740/W/23/3329204

16 South Avenue, New Milton, Hampshire BH25 6EY

- 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 Harbourwood Homes Ltd against the decision of New Forest District Council.
 - The application Ref is 23/10382.
 - The development proposed is to sever land and erect 1 chalet bungalow with parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant submitted a revised plan numbered 9694/100 Rev F with the appeal. The only difference between this plan and that considered by the Council is the inclusion of a bin storage area. The Council has had the opportunity to comment on the plan. It does not fundamentally alter the proposed development, so my consideration of the amended proposal would not prejudice the interests of those who were consulted on the original application.
3. The Council's third reason for refusal related to the impact of the development on European protected nature conservation sites. During the appeal the appellant submitted a Unilateral Undertaking under Section 106 of the Act, dated 13 March 2024 (the UU), which would secure financial contributions towards access, management, and monitoring improvements to mitigate the impact of the development. Furthermore, the Council has proposed a condition that could be imposed, should I be minded to allow the appeal, which would overcome its concerns regarding additional nitrate loading on the River Solent catchment. The Council has confirmed that the UU and the imposition of the condition would overcome reason for refusal numbered 3 on the decision notice.

Main Issues

4. In view of the above, the main issues are:
 - a) The effect of the development on the character and appearance of the area;
 - b) The effect of the development on the living conditions of the occupants of 16 South Avenue with regard to light and outlook; and,

- c) Whether the development would provide suitable living conditions for future occupants with regard to private outdoor amenity space

Reasons

Character and appearance

5. The appeal site lies at the junction of South Avenue and Fir Avenue, in a residential area comprising a mixture of houses and bungalows. Although it lies at the end of a row of houses, there are bungalows on the opposite sides of both roads. Whilst there is a variety of building forms and styles in the area, there is a cohesion to their layout and spacing. The dwellings are set back from the roads in orderly lines behind deep, enclosed front gardens. The roads are wide, with grass verges to either side, and there is an abundance of greenery, with street trees, boundary hedging, and planting in the front gardens. These factors combine to give the area a spacious suburban character.
6. The site lies in Character Area 5 as defined by the New Milton Local Distinctiveness Supplementary Planning Document (June 2010) (the SPD). In the vicinity of the site the SPD notes the variety in building forms and styles. However, it also identifies the consistent urban grain, deep gardens, buildings in proportionate green settings, and consistent set backs.
7. 16 South Avenue is not entirely typical of the surrounding development, as it is a corner plot with two road frontages, and its primary elevation looks onto its triangular side garden. However, the house is set back from both roads in line with the others in the row, maintaining the spacious and orderly arrangement of buildings. Although it has boundary trees and hedges to both frontages, which wrap around the corner, they are not so high and dense that the space around the building cannot be discerned. This planting does, however, contribute to the predominance of foliage in the area. The site therefore reinforces the key elements that are characteristic of the locality.
8. The proposed chalet bungalow would be set a similar distance back from South Avenue as the other dwellings in the row. In this regard, it would accord with the prevailing pattern of development. However, the tapering nature of the plot means that the building would be very close to the Fir Avenue frontage. The trees on this boundary would be removed, and the bungalow would be easily seen above the retained hedge. Despite its relatively modest scale, when viewed down Fir Avenue from the north, its close proximity to the road would be markedly out of character with the set back of the surrounding buildings, and it would be a prominent feature, intruding into the spaciousness of this key corner plot.
9. I am mindful that the proposal includes the retention of two trees, as well as the boundary hedging. However, the garden spaces around the building would be small and fragmented, and the dwelling would be very close to the hedge on the Fir Avenue frontage. As a result, it would not have the same proportionate green setting as the surrounding buildings, so it would not be sympathetic to local character.
10. Large gaps between dwellings are not a noted characteristic of the area, and the buildings are often quite closely spaced side by side. In this case, however, the proposed dwelling would be very close to the primary elevation of No 16. This would result in an uncomfortable relationship between the buildings, which

would only serve to highlight the impression that the dwelling was awkwardly squeezed onto the plot. It has been put to me that the building to plot ratio is not dissimilar to other nearby sites. My attention has been drawn, in particular, to No 15a South Avenue, which lies opposite the site and which the appellant identifies as having a lesser amount of space around it. However, in each of the cited cases, the buildings are set well back from the road, so that the spacious character of the area is maintained. Furthermore, none has a similarly awkward relationship with the primary elevation of another house as is proposed here.

11. In conclusion, therefore, the proposed dwelling would not respect the spacious character of the surrounding development due to its proximity to the road and its cramped appearance. As a consequence, the development would be in conflict with Policy ENV3 of the *New Forest District Council Local Plan 2016-2036 Part 1: Planning Strategy for the New Forest District outside the New Forest National Park (July 2020)* (the Local Plan). This Policy requires all developments to contribute positively to local distinctiveness, and to be sympathetic to the environment and their context. The proposal would also fail to meet the aims of the National Planning Policy Framework (the Framework) to achieve well-designed and beautiful places.

Living conditions of occupants of 16 South Avenue

12. The proposed dwelling would be located close to the eastern elevation of No 16, which contains a front door/porch and five windows. It was clearly originally designed to look out onto the side garden. The location of a new building directly in front of this elevation, and in close proximity, has the potential to harm the living conditions of occupants through loss of light and outlook. Indeed, I am advised that an Inspector dismissed an appeal for a dwelling on the same plot in 1989, partly on these grounds. However, I do not have full details of that case, so I must deal with this issue on the basis of the particular proposal that is before me, and the evidence that has been submitted with this appeal.
13. With regards to light, a Daylight Impact Study¹ (the Light Study) was submitted with the appeal, which contains the results of an assessment conducted in line with the BRE's Site layout planning for daylight and sunlight: a guide to good practice (BR 209). The Light Study concludes that, after construction of the dwelling, all five windows in the east elevation of No 16 would still pass the Vertical Sky Component test for daylight in buildings. Furthermore, although the external shading modelling in the Light Study was carried out to demonstrate the impact on the outdoor amenity areas, it also shows that on 21 March the proposed dwelling would not cast any shade on the windows in the east elevation of No 16 after about 10:30 in the morning. On the basis of this evidence, I conclude that there would not be a harmful loss of daylight or sunlight for the occupants of the existing dwelling as a result of the development.
14. In terms of outlook, the single storey nature of the proposal, and its hipped roof, would ensure that a reasonably open outlook would be retained from the first-floor windows in the east elevation of No 16. The ground floor windows on this side of the house would, however, look directly at the side wall of the proposed dwelling at close quarters, so outlook from them would be severely curtailed. Nevertheless, these are not the only windows that serve these

¹ HDSGREENTECH LTD - Document Number: 21125 R01 Daylight Impact Study

rooms, as there are also large windows in the front and rear elevations. These windows would be unaffected by the development, so occupants would retain an open outlook from the rooms to the north and south.

15. The proposal would not, therefore result in harmful loss of light or outlook for the occupants of 16 South Avenue. In this regard, the proposal would accord with Policy ENV3 of the Local Plan, which seeks to ensure that new development avoids adverse impacts on residential amenity.

Living conditions for future occupants

16. The proposed siting of an L-shaped dwelling on this tapering site would result in the outdoor amenity space being rather fragmented, with two small triangular areas on the Fir Avenue frontage. The northernmost of these triangles would be closely overlooked by a first-floor window in No 16, so would not provide a private space for relaxation. The second space would be small and hemmed in by the walls of the dwelling and the boundary hedge, so would be of little utility. However, the area to the south and east would be of a reasonable size to function as a garden, and the retained hedgerow would provide a suitable level of privacy. The Light Study demonstrates that over 50% of this area would receive in excess of two hours sunlight on 21 March. Indeed, it shows that sunlight would reach some part of this space at all times of the day.
17. Separate provision is made for car-parking and bin storage, and the small triangular areas could be used for practical purposes, such as drying washing. Consequently, in the absence of any policies or guidance defining minimum standards, I conclude that the larger area to the southeast would provide a suitable level of private outdoor amenity space for occupants of the proposed dwelling. The development would, therefore, accord with Policy ENV3 of the Local Plan in this regard.

Other Matters

18. The development has the potential to affect the integrity of the New Forest Special Area of Conservation (SAC), the New Forest Special Protection Area (SPA), the Solent and Southampton Water SPA, and the Solent Maritime SAC. Had the development been considered acceptable in all other respects, I would have had to consider the means of securing mitigation in more detail to satisfy myself, as the Competent Authority, that the development would comply with the Conservation of Habitats and Species Regulations 2017 as amended. However, as the appeal is being dismissed on other grounds, no impact on the SPAs or SACs will arise. Consequently, this matter does not need to be considered further here.

Planning Balance

19. I have found that the proposal would conflict with a development plan policy that seeks to protect the character and appearance of the area. However, it is not disputed that the Council cannot currently demonstrate a five-year supply of deliverable housing sites. The most recent evidence indicates that the supply is 3.07 years, so the shortfall is considerable. In these circumstances, Paragraph 11 d) of the Framework advises that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably

outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

20. Paragraph 225 of the Framework makes it clear that due weight should be given to existing development plan policies according to their degree of consistency with the Framework. Section 12 of the Framework seeks to achieve well-designed and beautiful places. Paragraph 135 says developments should be visually attractive as a result of good architecture, and sympathetic to local character, including the surrounding built environment. I see no fundamental conflict between these aims and those of Policy ENV3 of the Local Plan. The conflict between the proposal and this development plan policy should, therefore, be given significant weight in this appeal.
21. Set against the harm that I have identified, there would be benefits associated with the development. It would support the Framework's objective of significantly boosting the supply of homes as set out at paragraph 60, and it would make a modest contribution towards addressing the shortfall in housing land supply. The site is in an accessible location, so would be an appropriate site for additional housing. Paragraph 70 of the Framework says great weight should be given to the benefits of using suitable sites within existing settlements for homes.
22. The proposal would also provide economic benefits through employment during the construction phase, and the ongoing spend of residents thereafter. However, the relatively modest scale of the development means that these benefits would be limited.
23. Paragraph 131 of the Framework says that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve, and that good design is a key aspect of sustainable development. Furthermore paragraph 123 advises that the effective use of land in meeting the need for homes should also ensure the safeguarding and improvement of the environment. Consequently, when assessed against the policies in the Framework, taken as a whole, the benefits of the proposal are significantly and demonstrably outweighed by the harm to the character and appearance of the area. The advice at paragraph 11 d) does not, therefore, indicate that my decision should be otherwise than in accordance with the development plan.

Conclusion

24. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Nick Davies

INSPECTOR