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# Appeal Decision

Site visit made on 29 May 2024

**by R Cahalane BA(Hons) MSc MRTPI**

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

**Decision date: 17 July 2024**

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**Appeal Ref: APP/L1765/W/23/3332364**

**3 Baigent Close, Winnall, Winchester, Hampshire, SO23 0PE**

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 J Cooper against the decision of Winchester City Council.

The application Ref 22/00185/FUL, dated 28 January 2022, was refused by notice dated 27 September 2023.

The development proposed is the construction of a 2-storey side extension existing 4-bedroomed small HMO (Use Class C4) to provide 2 additional bedrooms.

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## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is the effect of the proposed development on the living conditions of the occupiers of Number 1 Baigent Close, with particular regard to loss of light.

## Reasons

3. The appeal site (No. 3) is a two-storey end-terraced dwelling that occupies part of the splayed corner plot at the junction of the Baigent Close cul-de-sac, currently used as a four-bedroomed house in multiple occupation (HMO). It is within a residential area containing a mixture of two-storey terraced dwellings/maisonettes and three-storey flats. Numbers 1 and 2 Baigent Close (No. 1 and No. 2) are at the end of a terrace of two storey dwellings fronting Firmstone Road (Nos. 104 – 110), which have private gardens extending to the rear.
4. The garden of No. 3 has a staggered side and rear boundary with No. 1 and 2. I understand from the evidence that the relatively small garden and patio area associated with No. 1 is the main useable private outdoor space for the occupiers of this property. Owing to the splayed nature and subdivision of the existing plots, this outdoor space is in close proximity to the side of No. 3, which as I observed during my site visit occupies slightly higher ground relative to the garden of No. 1.
5. To my mind, the existing form of No. 3 and its boundaries on higher ground level mean that the exiting relationship of buildings and gardens would already create a relatively contained and restricted outlook, as well as some loss of sunlight, for the occupiers of No. 1 from its private garden. Whilst the appellants' Shadow Analysis indicates that the loss of sunlight to be most severe during the shortest wintertime sunlight periods, it also indicates that

there is already an impact across the mid-morning to early afternoon periods for the other seasons.

6. The appeal scheme proposes the demolition of an existing outbuilding abutting the private rear garden boundary of No. 2, as well as a two-storey extension to No. 3. The proposed extension would be inset from the rear elevation and features a pitched roof with a side gable end to reflect the existing roof form, along with a lower ridge height. However, the proposal would extend out from the side elevation of No. 3 into the side garden. The new extension would be adjacent to most of the southwestern private garden boundary of No. 1. Bearing in mind the existing situation, and ground level changes, I consider that the proposed development would result in further overshadowing of the neighbouring garden space at No 1, and would exacerbate the loss of sunlight particularly experienced during the mid-late afternoon period.
7. The appellants' shadow analysis of the proposal covers 21 March/September, 21 June and 21 December. The annotated footprint within this analysis is larger than the plans considered in this appeal, as it extends alongside the entire southwestern garden boundary of No. 1. The shadowing impact of the actual appeal proposal would therefore not be as widespread as shown in this analysis, as the proposed footprint across No. 1's boundary is not as wide. Notwithstanding this, the shadow analysis does not cover the period beyond 12 noon towards 6pm.
8. As I have set out above, I have found that the proposed extension would lead to a significant and adverse additional amount of overshadowing across most of No. 1's private garden space, and across most of the afternoon period throughout the year. The orientation and juxtaposition between the buildings would avoid an adverse loss of evening sunlight, particularly in summertime. However, this would not, in my judgement, mitigate the extent of additional afternoon overshadowing that would occur, particularly as this is when the sun is at a higher point than in the evening.
9. Even when accounting for the existing shading caused by its boundary enclosures, and the overall scale of the proposed development relative to the appeal dwelling, I consider the additional loss of sunlight and overshadowing effects would be harmful to the living conditions of the occupiers of No. 1. The proposed development is therefore contrary to Policy DM17 (vii) of the Winchester District Local Plan Part 2 – Development Management and Site Allocations (2017), which requires new development to not have an unacceptable adverse impact on adjoining land, uses or property by reason of overshadowing.

### **Other Matters**

10. I am aware there have been numerous objections to the proposed development, including in respect of potential overbearing impact and loss of privacy for No. 1; and overshadowing for the occupiers of properties at No. 2 Baigent Close and at 104 Firmstone Road. However, the associated gardens of these properties are further away than No. 1 and I am satisfied that the resultant arrangement and separation distances would avoid adverse impact upon these two neighbouring properties in terms of loss of light, outlook or overbearing impact. Given the existing restricted outlook the occupiers of No. 1 would already experience from the private garden, I do not consider that the appeal proposal would exacerbate this. Had I been minded to allow the appeal,

I am satisfied that a suitably worded planning condition could have been imposed to ensure that the small first-floor hallway window is obscure-glazed with high-level opening, to ensure adequate privacy. Interested parties have also raised concerns relating to matters of design, local parking pressures and the potential for noise disturbance. A lack of harm in these regards, however, does not alter my findings in respect of the main issue nor justify the harm I have identified.

### **Conclusion**

11. For the reasons given above the appeal should be dismissed.

*R Cahalane*

INSPECTOR