

Appeal Decision

Site visit made on 13 August 2024

by R Cahalane BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 November 2024

Appeal Ref: APP/M1710/W/24/3345569

12 Beavers Close, Alton, Hampshire GU34 2EF

- 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 Arran Atkinson (Forays Homes) against the decision of East Hampshire District Council.
 - The application Ref is 55008/002.
 - The development proposed is erection of 2 bedroomed dwelling with access from Kellynch Close. Creation of raised parking area along with bin and bike store (revised proposal following refusal of application 55008).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The first two reasons for refusal in the decision notice cite harm to Policy CP29 of the East Hampshire District Local Plan Joint Core Strategy (2014) (JCS). In this regard, the officer report also cites harm to Policy CP27 of the JCS. To clarify, my decision has assessed compliance against both these policies.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the living conditions of the occupiers of 8 Beavers Close, with particular regard to privacy and outlook;
 - whether acceptable living conditions would be provided for future occupiers of the proposed dwelling with regard to private garden space provision; and,
 - the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

Living conditions of 8 Beavers Close

4. The appeal site comprises garden land to the side of No 12 Beavers Close, at the end of a residential cul-de-sac. The site slopes downwards towards the two-storey detached dwelling of No 8 Beavers Close. The appeal proposal

would face towards that dwelling and its rear garden. At the time of my site visit, No 8 contained a dense hedge within and along most of its rear garden boundary with the appeal site, and along its western side boundary. This would provide effective screening of views from the proposed ground floor elevation and external patio area towards this neighbour. The dwelling would be sited at sufficient distance away from No 8 to avoid an intrusive or visually oppressive impact, despite the increased land levels. The proposed first floor window facing No 8 would be obscure-glazed and could be secured by means of planning condition.

5. However, the proposed streetscene shows that the parking area adjacent its rear garden boundary would be elevated. This would be directly adjacent to a clear gap between No 8's hedges and would afford views directly down towards this neighbour's rear garden and elevation. Whilst this may be an irregular occurrence, for instance whilst entering and exiting the parked vehicle, vehicle movements and parking would also be readily visible from No 8 above the fence line. Overall, this would lead to an oppressive sense of overlooking and intrusiveness upon No 8, given the proposed elevation and immediate proximity to its garden boundary. Although the appeal site already contains a garden, the proposed parking area would clearly provide an additional level of built form and activity beyond this existing situation.
6. The appeal proposal is therefore contrary to Policy CP27 of the JCS. This policy requires, amongst other things, development to avoid an unacceptable effect on the amenity of neighbouring occupiers through loss of privacy.
7. The first reason for refusal also cites harm to Policy CP29 of the JCS. Whilst this policy refers to a wide range of design requirements, including the relationship of development to surrounding buildings, it does not explicitly refer to living conditions of neighbours. In this respect, I have found no harm to this policy.

Living conditions of future occupiers

8. Policy CP27 prohibits development that would result in pollution which prejudices the health and safety of communities (which would include occupants of new developments), including from privacy and overshadowing, amongst other things.
9. The ground level inclines considerably from the proposed northern elevation towards the rear elevations of Nos 35 and 37 Lime Avenue and No 46 Kellynch Close, to such an extent that some of these neighbouring ground floor windows are partially visible above the fence line, as well as all their first-floor windows. No.46 Kellynch Close is set further away and at a more pronounced angle than No 37 Lime Avenue.
10. The resultant relationships with the nearest dwellings of Nos 35 and 37 Lime Avenue would provide an unacceptably oppressive and exposed garden environment for future occupiers of the proposed dwelling. This would provide insufficient privacy for this garden. Whilst direct views to within the proposed ground floor level would be more restricted due to the boundary treatments and the extent of land level increase, this would not mitigate the harmful environment that would be experienced within the northern garden area.

11. Although the appeal site already exists as garden space for No 12 Beavers Close, and has not been extensively planted by hedges or other screening within its boundaries, it is not its sole or most immediate area of garden. Views from the rear elevation of No 12 towards the Lime Avenue dwellings beyond are also more restricted, due to the neighbouring elevated bricked outbuilding and the higher level of fencing and shrubbery along the rear boundary immediately behind No 12. This rear garden area is therefore more protected from neighbouring windows than what future users of the proposed northern garden would experience, even though the separation distances appear broadly similar. This existing layout therefore does not justify that of the appeal proposal.
12. The proposed new dwelling would restrict the level of natural sunlight to some of its northern garden area, due to its scale and the site orientation. Due to the overall size and positioning of this garden area, on balance sufficient sunlight to it would still be provided.
13. The proposal would also be served by a more enclosed patio area on its southern side. However, this is a considerably smaller area and in my judgement, it would not in itself provide sufficient garden space for its future occupiers. This southern area of the site contains a tree adjacent to the boundary of No 8 and extends significantly above this neighbour's hedge line. This tree is indicated on both the existing and proposed block plans, and the appeal submission does not clarify whether it would require removal to facilitate the proposal. If this tree is to be retained, given the orientation and proximity it would cast a significant shadow over the proposed patio area.
14. Even if this tree were to be removed, a considerable portion of the patio area would remain shaded throughout much of the day, due to the southern hedgerow and fence and the western elevated parking area. The proximity of the proposed dwelling to this patio area would further exacerbate a gloomy and oppressive environment that would be experienced by its future users. The more private layout of this patio area would not mitigate this harm. Although this patio area would form a small part of the overall garden provided for the proposal, I nonetheless afford substantial weight to the above harm as it would adversely affect the quality of the overall garden.
15. The proposal would therefore provide unacceptable living conditions for its future occupiers, due to inadequate garden space provision that would not provide sufficient privacy, or receive sufficient sunlight. In this regard, the proposal would conflict with Policy CP27 of the JCS.
16. Policy CP29 reads as a design policy and although its supporting text at paragraph 7.74 advises that future developments must be fit for purpose for many years and meet the changing circumstances and needs of everyone, this does not form a criterion of the policy itself. I have therefore found no harm to this policy in this respect.

Character and appearance

17. Beavers Close contains a mixture of bungalows and two storey detached and terraced dwellings, and they share many common design features and building lines. The proposed dwelling would be to the side of No 12 and at a relatively discreet location at the end of a cul-de-sac walkway. Its two-storey

height would match that of No 12 and its width would appear commensurate to it. The proposal would also not project beyond No 12, thereby respecting the established building line. Although it would partly contain a single storey eaves level, given the variety of building heights along Beavers Close the appearance of the dwelling would not be out of character.

18. The proposal would be more prominent when viewed at the end of the cul-de-sac of Kellynch Close, on the other side of the site. Its vehicular access would be from here and would necessitate removal of the closeboard boundary fence. Although the proposed access, parking and turning areas would require alteration of existing land levels to be higher than the dwelling, this would mainly follow the existing slope across Kellynch Close. The dwelling would also be sited partially below the road level and whilst it would be sited closer to this cul-de-sac, it would be well set away from it and its side profile would be of similar massing to that of No 12 Beavers Close. This would avoid an adverse visual impact, even with an open access and with the proposed fence height being lower than the existing fence.
19. Within the appeal site itself, the dwelling would not appear to be cramped or confined within its plot, or out of character with its surroundings. It would be close to the boundary of No 8, but would have a more generous gap towards Kellynch Close and the dwellings of Lime Avenue to the rear. The parking and turning areas would not sit sufficiently above the dwelling to cause an adverse impact on the character of the area, notwithstanding the other specific harm to No 8 as identified above. The area lost to parking would be noticeably exceeded by the overall proposed garden areas, which would not lead to a reduced plot size when compared to its neighbours.
20. The proposed dwelling would therefore comply with the design requirements of Policy CP29 of the JCS and Policy DE2 of the Alton Neighbourhood Plan (ANP) (2021), insofar as they collectively require development to respect the character, identity and context of the district's towns and to be of appropriate appearance, size, scale and density.

Other Matters

21. Interested parties have raised concerns regarding increased traffic, insufficient access adjacent garages, and insufficient parking provision and reversing space. The proposal would provide one parking space, which would provide sufficient space to exit in forward gear. This access and parking provision is adequate for the size of the dwelling and its location within the settlement of Alton. Had I been minded to allow the appeal, a suitably worded planning condition could have been imposed to control movement of construction vehicles and protect the highway. A neighbour considers the proposal to be unfair as they were not allowed to install a driveway, but this is not a matter that can be considered under this appeal.
22. Whilst the appeal site is a form of green space, it comprises private garden land with no public access, and the County Ecologist raised no objection to the proposal. There is therefore no substantive evidence to indicate that the appeal proposal would cause any harm in this regard. The appellant suggests that the proposal would develop under-utilised land as supported by paragraph 124 d) of the Framework, but the site still appeared as a useful and well-maintained area of garden space.

Planning Balance

23. I have found that the proposal would not have a harmful effect on the character and appearance of the surrounding area. It would however cause significant harm to living conditions of the occupiers of 8 Beavers Close. Future occupiers of the proposed dwelling would also not be afforded with acceptable living conditions. Paragraph 135 f) of the National Planning Policy Framework (the Framework) seeks to create places that promote health and well-being, with a high standard of amenity for existing and future users. The proposal would therefore conflict with the development plan as a whole.
24. The Council refers to its Five-Year Housing Land Supply Position Statement (October 2023) and Addendum Position Statement (February 2024). The addendum cites an appeal¹ in nearby Four Marks, which was ongoing at the time of its publication, and then concludes that the Council can demonstrate 4.74 years housing land supply. This appeal decision was issued in April 2024, and tested this housing land supply figure following a Public Inquiry. Within this decision, the Inspector however found that the supply at 1 April 2023 was 3.59 years based on the particular evidence before that Inquiry.
25. This latest identified shortfall has not been disputed by the Council in its appeal statement and exists regardless of whether a four- or five-year housing land supply is required. The evidence before me therefore indicates that Paragraph 11 d) of the Framework is engaged by footnote 8, which states that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
26. The ANP was modified in 2021 and contains policies and allocations to meet its identified housing requirement. It is thus up-to-date in the context of paragraph 14 of the Framework, which states that in situations where the presumption (at paragraph 11 d)) applies to applications involving the position of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits. I have found no conflict with the ANP but irrespective of this consideration, the 'tilted balance' required by paragraph 11 d) of the Framework remains engaged.
27. The proposal would make efficient use of land within one of the Level 1 Market Towns, defined by Policy CP2 of the JCS as the most sustainable locations for most new development in terms of access to local services and facilities. The Framework also seeks to significantly boost the supply of housing provision, and also states that small and medium sized sites can make an important contribution to meeting the housing requirement of an area. The proposal would make a small but positive contribution to housing supply. Small sites such as this can cumulatively provide a significant contribution to the overall housing need, which may also lead to fewer countryside sites considered for housing development. Moderate weight is afforded to this provision of one dwelling and the associated benefits arising from this.
28. Although the Government's draft planning reforms may further increase the required supply of housing and the extent of the Council's current shortfall,

¹ APP/M1710/W/23/3329928 (Mount Royal, 46 Lymington Bottom, Four Marks)

they are at the early stages of consultation. These reforms are therefore afforded only limited weight.

29. The introduction of an active frontage at the end of Kellynch Close can be viewed as beneficial, although an interested party has perceived the associated removal of fencing here as creating an increased crime risk. The benefit of an active frontage here is only afforded limited weight.
30. In the specific circumstances of this appeal, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Conclusion

31. The material considerations before me, including the Framework, do not indicate that a decision should be made otherwise than in accordance with the development plan. Therefore, the appeal is dismissed.

R Cahalane

INSPECTOR