



Appeal Decision

Site visit made on 10 December 2024

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2025

Appeal Ref: APP/B1740/W/24/3348054

19 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 Mr S Willson against the decision of New Forest District Council.
 - The application reference is 23/11034.
 - The development proposed is to demolish existing dwelling; erect 2no. dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024, and the comments of the main parties have been sought. Consideration has been given to those received in reaching the appeal decision.

Main Issues

3. The main issues in this case are:
 - the effect of the proposal upon the character and appearance of the area;
 - the effect upon the living conditions of nearby and future residents with particular regard to light, privacy, and outlook; and
 - the effect upon protected habitat sites.

Reasons

Character and Appearance

4. The appeal property is positioned to one side of South Avenue, in a residential area that comprises a mix of mostly detached houses and bungalows. 19 South Avenue forms part of the long row of bungalows to the southern side of the road. There are a variety of building styles present, albeit the area has a distinct cohesion due to the similarity of the positioning of the houses and bungalows within their plots. To the north of the road are mostly houses, and like the bungalows opposite them these houses are set back from the highway behind similar sized, regularly shaped front gardens.
5. The size and repetition of these front gardens along with the similar breadths of the plots along the road gives the area a spacious, planned appearance, a characteristic recognised by the Inspector for the appeal upon a nearby

property in South Avenue (appeal ref: APP/B1740/W/23/3329204). The New Milton Local Distinctiveness Supplementary Planning Document (2010) describes the area as having a variety of building forms and styles with a consistency of scale, proportion, plot divisions, and setbacks. The existing bungalow contributes to this cohesion, not just because of its plot size and its positioning within it, but also because of its single storey form. It forms part of the long, cohesive row of bungalows that frame the highway, thereby contributing to the distinctive planned appearance of the area.

6. The two dwellings would approximately follow the building line, as well as reflecting the depths of those nearby. However, the provision of two houses within the plot would appear harmfully cramped and constrained. Their tall height and very close proximity to the plot boundaries and also to each other would result in them appearing conspicuously constrained amongst the long row of bungalows within which they would be positioned. Even following the gentle sweep of the bungalows into the end of Fir Avenue, the presence of two tall, deep houses would unacceptably disrupt the harmonious cohesion that exists to the southern side of the road.
7. The presence of long, tall walls and roofs would be conspicuously prominent, having an imposing and overbearing relationship with the neighbouring properties that would be visible from long distances away. The narrow path between the two buildings would exaggerate the constrained appearance of the scheme, and particularly so as it would taper. Taken as a whole, the houses would dominate the plot, as well as disrupt the cohesion of the row of bungalows within which they would be positioned.
8. There are a variety of styles of bungalows in the row, including the neighbouring chalet one, but rather than replicate the strong horizontal emphasis of those nearby, those proposed would be narrow and tall. Whilst the ridge heights may be similar to those adjacent to the site, the houses would have a conspicuous vertical emphasis. In part this would be due to their two storey form and height, but also because the front elevation fenestration would have tall, narrow windows and large glazed panels. Rather than appear as chalet bungalows, their form and height would be such that they would legibly be houses.
9. The existing access would serve the dwellings, with parking and turning space occupying much of the front garden. Several other properties have front gardens dedicated to parking, albeit where this occurs the spacious harmony created by the similar plots sizes is retained, and they serve one rather than two dwellings. The use of the front garden by two households would concentrate activity into a constrained space, thereby harmfully intensifying the use of this area as well as restricting the amount of soft landscaping.
10. The bungalows at the southern end of Fir Avenue have tapered front gardens with narrow frontages onto the public highway as they accommodate the termination of the road. Nevertheless, they retain the distinctive building line and clearly serve only one dwelling, similar to that which occurs with 15a and 14 South Avenue. Baden Close and Greenwoods are terraced and semi-detached homes in much smaller plots. Given these differences, none of these comparisons forms binding precedents for approving the appeal scheme.
11. For these reasons the scheme would unacceptably harm the character and appearance of the area, and the suggested conditions would not overcome

these fundamental harms. The scheme would fail to accord with Policy ENV3 of the New Forest District Council Local Plan Planning Strategy (2020) (LP), which seeks amongst other things, development that is sympathetic to and responds to its environment and context, and that which respects and enhances local distinctiveness, character, and identity.

Living Conditions

12. The close proximity of the proposed houses to the site boundaries and to each other would result in future occupiers experiencing unacceptable living conditions. Both houses would have ground floor windows that look out onto the shared pathway and also onto the boundary fences. Whilst these would be secondary windows, the substantial depth of the houses would be such that the outlook for future occupiers would be dominated by the tall fences or walls, and this proximity would also result in limited natural light. Furthermore, where windows look onto the shared path there would be a consequential and unacceptable loss of privacy, both from the presence of nearby windows in the neighbouring dwelling and also from people passing very close by.
13. Full height first floor bedroom windows would also result in the existing neighbouring gardens being overlooked. Whilst this overlooking would be at an oblique angle, it would be at a high level providing views of much of the rear gardens of neighbouring properties even if tall fencing was provided. Nor would such fencing mitigate the imposing proximity of long, tall buildings very close to the shared boundaries. Despite the presence of the car port to 17 South Avenue and the alignment of the rear of the houses with those either side, in a long row comprising single storey dwellings the close proximity of such tall buildings would be unacceptably oppressive to nearby residents.
14. There would be a loss of daylight and sunlight to the neighbouring properties given the height and depth of the houses, particularly in the mornings, evenings, and when the sun was low in the sky. However, the positioning of the houses would be such that the neighbouring properties would not be unacceptably shaded by them, and when it does occur it would be time limited and would impact mostly upon the side gardens and walls of the neighbouring bungalows.
15. For these reasons the scheme would unacceptably harm the living conditions of existing and future residents. The suggested conditions would not overcome these harms, and the scheme would fail to accord with LP Policy ENV3, as this seeks amongst other things, that development avoids unacceptable effects upon residential amenity by reason of overlooking, visual intrusion or overbearing impact.

Habitat Sites

16. Within the Council's area there are internationally important habitat sites, that include the New Forest Special Protection Area (SPA), Special Area of Conservation (SAC), and Ramsar; the River Avon SAC, SPA, and Ramsar; the Solent and Southampton Waters SACs, SPA and Ramsar; and also the Dorset Heathlands SAC, SPA and Ramsar.
17. The New Forest habitat sites recognise the national and international importance of these habitats that include bogs, marshes, heaths and

woodlands that support a variety of rare birds and insects. The Dorset Heathlands host priority habitats and species, including birds, lizards and snakes as well as other typical species of heathlands. The River Avon sites comprise a bio-diverse lowland river system that supports nationally and internationally important species, including aquatic flora, invertebrates, fish and birds. This river flows into the Solent and Southampton Waters habitat sites, and these support a range of wading and migratory birds. All these habitat sites are under significant pressure from public access and use, and a net increase in the number of dwellings and occupiers in the area would increase the recreational pressure upon these important sites, and impact upon air quality. In addition, drainage and wastewater discharge from residential development is contributing to elevated levels of nitrogen in the River Avon and Solent and Southampton Waters habitat sites, and this enrichment causes eutrophication that in turn impacts upon the foodstuffs available for birds.

18. Given the location of the scheme, future occupiers would be likely to impact upon these habitat sites thereby having a significant effect upon their integrity, including through increased recreational uses, air quality impacts, and wastewater. In order to avoid impact upon the integrity of the habitat sites, LP Policy ENV1 and Policy DM2 of the New Forest District Council Local Plan Sites and Development Management (2014) (SDM) and the supporting Supplementary Planning Documents, Air Quality Assessment in New Development (2022) and Mitigation for Recreational Impacts (2021), require that development will not be permitted where it would adversely affect protected species or their habitats, and that it would only be permitted where any necessary mitigation, management or monitoring measures are secured in perpetuity and be implemented in a timely manner.
19. The Council has suggested a condition to achieve nutrient neutrality, although the appellant has not provided mitigation for the impact of the scheme upon the integrity of the other habitat sites. Irrespective of the intentions of the appellant to provide a legal agreement to secure mitigation measures, none has been provided. Without mitigation the scheme would adversely affect the integrity of these habitat sites, contrary to the Conservation of Habitats and Species Regulations (2017) and to the above referenced policies. In such circumstances it has not been necessary to undertake Appropriate Assessments for the habitat sites and consider the likely effectiveness of the mitigation measures arising from the suggested condition.

Other Matters

20. Local residents have raised a number of other matters, including loss of biodiversity, traffic and parking concerns, and construction nuisance and disturbance. Following the findings on the main issues, there is no need to consider these matters further.

Planning Balance

21. The Council cannot demonstrate a five-year housing land supply, and an additional home would make a small but important contribution to supply given the level of significant shortfall of provision in the Council's area (at about 3.07 years). The Framework also supports the development of windfall sites with great weight occurring from the use of a site within an existing settlement. The location of future residents near to employment, services and facilities

would be modest social, economic, and environmental benefits, and there would be further modest albeit time limited economic benefits arising from the construction of the scheme.

22. Weighing against these benefits would be the significant harms to the character and appearance of the area, and that neither existing nor future occupiers would experience acceptable living conditions. LP Policy ENV3 is broadly consistent with the Framework, as the Framework requires development to be sympathetic to local character and achieve a high standard of amenity for existing and future occupiers. In addition, the scheme would have an adverse impact upon the integrity of habitat sites, with policies LP Policy ENV1 and SDM Policy DM2 reflecting objectives of the Framework which requires the refusal of planning permission where the impact of development upon protected habitats and species cannot be adequately mitigated.
23. These harms weigh very heavily against the scheme, and particularly so with regard to the harm to the habitat sites. Whilst a key aim of the Framework is to significantly boost the supply of housing, when read as a whole the Framework does not suggest this should happen at the expense of other considerations. This is because the Framework makes it clear that where there are protected areas and assets impacted by a scheme, and this includes habitats sites, then the harm to them provides a strong reason for refusing the development.

Conclusion

24. For the above reasons the adverse impacts arising from the scheme would significantly and demonstrably outweigh the aforementioned benefits, and the suggested conditions would not overcome these harms. The scheme would conflict with the development plan when considered as a whole, and there are no other considerations, including the requirements of the Framework, that outweigh this finding. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR