



Appeal Decision

Site visit made on 20 January 2025

by **S Harrington MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 February 2025

Appeal Ref: APP/M1710/W/24/3351258

4 Dene Close, Ropley, Alresford, Hampshire SO24 0BN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Robert Daynes against the decision of East Hampshire District Council.
 - The application Ref is 59590/003.
 - The application sought planning permission for a detached dwelling on land adjoining No 4 Dene Close (Revised scheme of application 59590/001) without complying with a condition attached to planning permission Ref 59590/002, dated 31 January 2024.
 - The condition in dispute is No 11 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans and particulars: 00C - Location and Block Plan; CIL Form 1; CIL Form 2; 01B - Proposed Site Plan; 02A - Proposed Ground Floor & Roof Plan; 03A - Proposed North and West Elevations; 04A - Proposed South and East Elevations; 05B - Street Elevations (North); PA-06C - Drainage Layout; PA 07 Landscape layout; Soakaway Calculations; Peculation test a Nov 23; Klargestor bio-disc literature; Klargestor soakaway; AEWCltid Protected species walkover survey report (dated Nov 2023); Nitrogen and phosphate mitigation note Oct 23 (including Appendix D; Management of Package Treatment Plant).
 - The reason given for the condition is: To ensure provision of a satisfactory development.
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Decision

1. The appeal is allowed and planning permission is granted for a detached dwelling at 4 Dene Close, Ropley, Alresford, Hampshire SO24 0BN in accordance with the application 59590/003, without compliance with condition number 11 previously imposed on planning permission Ref 59590/002 dated 31 January 2024 and subject to the conditions within the attached schedule.

Applications for costs

2. An application for costs has been made by Mr Robert Daynes against East Hampshire District Council. This application is the subject of a separate decision.

Background and Main Issue

3. Planning permission has previously been granted for a detached dwelling. The planning permission included condition 11 which specifies the approved plans. The proposal seeks removal of condition 11 and its replacement with a condition specifying plans that reflect a revised design to that approved. The main issue is the effect of the revised design on the character and appearance of the area.

Reasons

4. The appeal site is located at the end of a cul-de-sac in a predominantly residential area. Dwellings within the cul-de-sac are terraced, single storey and exhibit a

number of uniform architectural features. However, the appeal site is seen in the context of surrounding nearby properties outside of those within Dene Close, which feature a variety of detached and terraced single and two storey dwellings with varying roof forms including gables and hips. Furthermore, a number of properties in the area feature roof lights and dormer windows all of which contribute to the character of the surrounding area.

5. Notwithstanding the inclusion of rooflights and dormer windows to the rear facing elevation of the proposal, the eaves and ridge heights would be similar to that of the neighbouring terrace of bungalows and as previously approved. Moreover, although of a greater floor area than previously approved, the proposal would retain the appearance of a single storey dwelling and would not be read as a form of development out of scale with surrounding development, given the terrace form of neighbouring properties, and two storey properties at Station Hill.
6. Furthermore, whilst the proposed roof would feature a half hip, this would not appear unusual in the context of built form in the area and would provide visual transition from the fully hipped properties at Dene Close, to the gable roofed two storey properties at Station Hill.
7. In addition, the use of exterior facing materials sympathetic to the surrounding local palette would further assist in assimilating the proposal into the street scene. The proposal would therefore not appear any more dominant or conspicuous than the previously approved design and would accord with guidance on building forms and materials provided within the Ropley Village Design Statement.
8. Consequently, I conclude that the revised design would not adversely affect the character and appearance of the area. As such, it would accord with policies CP29 of the East Hampshire District Local Plan: Joint Core Strategy, RNP11 and RNP12 of the Ropley Neighbourhood Plan 2019. These policies, amongst other things, seek to ensure development be appropriate to, and respects the character, identity and context of the area, and is of high quality design that respects and enhances quality of place.

Other Matters

9. Correspondence and requests for meetings between third parties are a civil matter that falls outside of the planning regime.
10. The Planning Practice Guidance (PPG)¹ outlines that there is no statutory limit on the degree of change permissible to conditions under S73 of the Town and Country Planning Act 1990 (as amended), but the change must only relate to conditions and not to the operative part of the permission. In this instance, the proposal, whilst facilitating first floor accommodation, does not result in a development that conflicts with the operative part of the original planning permission.
11. While the proposal would result in both roof lights and dormer windows, the separation distances between properties to the front and rear are such that there would be no significant loss of privacy to the occupiers of these dwellings. Furthermore, the spatial relationship, lack of upper floor windows to the side elevations and resultant oblique views to adjacent properties, in combination with

¹ Paragraph: 013 Reference ID: 17a-013-20230726

the boundary treatments would also prevent a significant loss of privacy to occupiers of adjacent dwellings.

12. In terms of drainage provision, building regulations is a differing legislative regime, and there is no substantive evidence before me that the proposed drainage layout would not be achievable or effective. Furthermore, the proposal provides sufficient off-road car parking and although a landscape layout has been provided, as with the original planning permission, further landscape details can be secured through a planning condition to ensure appropriate landscaping and boundary treatments are provided.
13. The appeal site is within the nitrate area for the River Test and River Itchen, which drains to the Solent and its component European Sites (Chichester and Langstone Harbour Special Protection Area (SPA) and Ramsar site, and Solent Maritime Special Area of Conservation (SAC) (the Protected Sites).
14. Qualifying features of the Chichester and Langstone Harbours SPA are its waterbird assemblage and bird species including dark-bellied brent goose; common shelduck; Eurasian wigeon; Eurasian teal; northern pintail; northern shoveler; red-breasted merganser; ringed plover; grey plover; sanderling; dunlin; bar-tailed godwit; Eurasian curlew; common redshank; ruddy turnstone; Sandwich tern; common tern; and little tern.
15. The qualifying features of the Solent Maritime SAC include sandbanks slightly covered by sea water; estuaries; mudflats and sandflats not covered by seawater at low tide; intertidal mudflats and sandflats; coastal lagoons; annual vegetation of drift lines; perennial vegetation of stony banks; coastal shingle vegetation outside the reach of waves; salicornia, glasswort and other annuals colonising mud and sand; spartina swards; cord-grass swards; atlantic salt meadows; shifting dunes along the shoreline with ammophila arenaria; shifting dunes with marram; and populations of Desmoulin's whorl snail.
16. High levels of nitrogen and phosphorus input to the water environment of the Solent region caused by wastewater from existing housing and from agricultural sources are causing eutrophication at the Protected Sites. The condition of the Protected Sites is deteriorating due to increased nutrient loads. The addition of residents associated with new dwellings which increase the amount of foul water produced in the catchment area will be likely to increase levels of nutrients within the Protected Sites. Significant effects from the development are therefore incapable of being ruled out and are considered likely.
17. The proposal would result in the creation of an additional dwelling which cannot be connected to mains sewers due to its location. It is proposed that foul water generated by occupants would be dealt with by a new Package Treatment Plant (PTP) which would serve both the proposed dwelling and 4 Dene Close.
18. The detailed existing and proposed nitrate and phosphate calculations which have been provided clearly demonstrate that the new PTP would result in an overall reduction of both nitrates and phosphates at the site.
19. I have had regard to the response of Natural England following consultation and I find that the evidence before me points to the development being able to robustly secure nutrient neutrality, subject to the imposition of an appropriate planning condition. Consequently, following Appropriate Assessment, the proposal would

suitably safeguard ecology and biodiversity both directly and indirectly, and would not adversely affect the Protected Sites.

Conditions

20. By allowing this appeal, a new planning permission is created. The PPG outlines that the time limit within which the development must be started cannot be amended, so I have altered the commencement condition to reflect 3 years from the date of the original permission.
21. The PPG makes clear that decision notices for the grant of planning permission under S73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original permission, I have imposed all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
22. I have varied the plans condition to include the plans showing the amended design the subject of this appeal and remove reference to the application and CIL forms which is not necessary. Previously imposed pre-commencement conditions remain relevant and necessary and are required to ensure adequate detail is provided prior to works taking place. These relate to levels in order to ensure a satisfactory relationship with adjoining buildings in the interests of the character and appearance of the area, and provision of renewable or low carbon energy sources in the interests of climate change. However, as the submitted drawings provide adequate detail of the height of the proposal in relation to adjoining properties, I have removed this element.
23. Further conditions are necessary to ensure a PTP is installed and maintained and managed in interests of protection of the European Sites, materials are appropriate in the interests of the appearance of the development, and the drainage scheme is provided to ensure adequate drainage provision.
24. Conditions are also necessary in respect of boundary treatment and restricting certain classes of permitted development in order to safeguard the living conditions of occupiers of neighbouring properties. Finally, conditions are necessary in respect of wildlife protection, mitigation and enhancement measures in the interests of bio-diversity, and to ensure parking areas are available prior to occupation in the interests of highway safety.

Conclusion

25. For the reasons given above I conclude that the appeal should be allowed and grant a new planning permission.

S Harrington

INSPECTOR

Schedule

Conditions

- 1) The development hereby permitted shall be begun before 31 January 2027.
- 2) No development shall commence on site until plans of the site showing details of the existing and proposed ground levels, proposed finished floor levels, levels of any paths, drives, garages and parking areas and the proposed completed height of the development and any retaining walls have been submitted to, and approved in writing by the local planning authority. The development thereafter shall be carried out in accordance with the approved details.
- 3) No development shall commence on site until a scheme has been submitted to, and agreed in writing by, the local planning authority to demonstrate that the built development hereby permitted incorporates measures that provides at least 10% of energy demand from decentralised and renewable or low carbon energy sources. Before any part of the development is first occupied a verification report and completion certificate shall be submitted in writing to the local planning authority confirming that the built development hereby permitted has been constructed in accordance with the approved scheme.

The developer shall nominate a competent person for the purpose of assessing and providing the above required report and certificate to confirm that the completed works incorporate such measures as to provide these requirements. The measures shall thereafter be retained and maintained to the agreed specification for the lifetime of the development.

- 4) Prior to the first occupation of the development hereby permitted, the personal treatment plant (PTP) Graf one2clean package hereby approved shall be installed and maintained and monitored in strict accordance with the Appendix D Management of Package Treatment Plant of the Nitrogen and phosphate mitigation note Oct 23.
- 5) The development hereby permitted shall be constructed in accordance with the materials specified within the approved details, unless details of other suitable materials are otherwise agreed in writing by the local planning authority.
- 6) The development hereby approved shall be carried out in accordance with the hereby approved drainage scheme and shall be retained thereafter.
- 7) The development hereby approved shall not be first brought into use until a detailed boundary treatment plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of the positions, design, materials/species of the boundary treatments to be erected/planted. The approved details shall be fully implemented before the use of the development is commenced and/or any part of the development is occupied and shall be retained thereafter.

- 8) The development hereby permitted shall not be brought into use until the areas shown on the approved plan for the parking of vehicles including the garage shall have been made available, surfaced and marked out. The parking areas shall then be permanently retained and reserved for that purpose at all times.
- 9) All wildlife protection, mitigation and enhancement measures shall be undertaken in adherence with the recommendations contained within Sections 6 of the Protected species walkover survey report submitted by AEWCLtd dated Nov 2023. The development shall be carried out in accordance with the approved report, including the mitigation for any reptiles that may be present and measures to ensure the ability for hedgehogs to move through the area, unless otherwise agreed in writing by the Local Planning Authority.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (or any Order revoking, re-enacting or modifying that Order) no extensions and outbuildings otherwise permitted under Schedule 2, Part 1, Classes A, AA B, C and E of said Order shall be carried out on the dwellinghouse or within its curtilage without the prior written consent of the Local Planning Authority.
- 11) The development hereby permitted shall be carried out in accordance with the following approved plans: 00; 01A; 02A; 03B; 05B; 06.

****End of Conditions****