



Appeal Decision

Site visit made on 22 January 2025

by **Stewart Glassar BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 February 2025

Appeal Ref: APP/W1715/W/24/3345833

60 Bursledon Road, Hedge End, Hampshire SO30 0BY

- 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 Mrs Helen Jones against the decision of Eastleigh Borough Council.
 - The application Ref is F/24/96708.
 - The development proposed is new dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on a) the living conditions of neighbours; b) the character and appearance of the area; and c) the protected Habitats Sites, with particular regard to the Solent Complex (Special Protection Area, Special Area of Conservation and Ramsar sites), River Itchen (Special Area of Conservation) and New Forest National Park (Special Protection Area, Special Area of Conservation and Ramsar sites).

Reasons

Living Conditions

3. The proposed building would be positioned close to the boundary with No.58 Bursledon Road. The proposed rear bedroom would offer occupants views across this neighbour's rear elevation/patio area. These areas are generally considered to be the most private and sensitive part of a garden.
4. The garden at No.58 is already subject to some overlooking from neighbouring properties. Indeed, from my site visit it appears that a degree of mutual overlooking is not uncommon in the area. However, I find the extent of overlooking which would occur from the proposal would result in this neighbour's living conditions falling below that which they could reasonably expect, having regard to their current situation and the area generally.
5. Whilst the window would not be serving the main living area, it is nonetheless serving a habitable room. Given that the proposed dwelling could be occupied by a family, a bedroom might not necessarily be used only at night or only for rest. For similar reasons, restricting outlook from this room via an obscurely glazed window would raise concerns as to the living conditions of future occupants. Furthermore, obscure glazing might not necessarily overcome the neighbour's perception of

being overlooked. As such, I do not consider this to be a viable solution that would allow me to find in favour of the scheme on this main issue.

6. Thus, the overall effect would be to cause harm to the living conditions of the neighbour at No.58. The proposal would therefore conflict with Policy DM1 of the Eastleigh Borough Local Plan 2022 (EBLP) which, amongst other things, requires developments to be compatible with adjoining uses and buildings.

Character and Appearance

7. When considering certain individual aspects of the scheme, such as it being a chalet bungalow, the choice of external materials and ensuring there is space to the side boundaries the proposal reflects some broad characteristics of its immediate vicinity.
8. There are however other aspects of the scheme such as its siting, height and the use of dormers over which the Council raises particular concerns. From my site visit it was evident that there is a degree of variation in the area where such matters are concerned.
9. Thus, the dwelling would sit forward of No. 2 Foord Road but would not be positioned so far forward in the site that it would be abnormally close to the road. Even allowing for the topography of the area, there is not a consistency in ridge heights and although the ridge of the proposed dwelling would sit above that of No.2, it would be below that of No.60 Bursledon Road. The scheme utilises two, long side dormers. Although other properties in the area have front/rear dormers as opposed to ones on the side, the proposed dormers would not be totally alien features within the area.
10. That the parking serving No.60 would be to the front of the proposed dwelling does attest to the limited plot width and limits the extent to which there could be any meaningful landscaping to the front of the site. Nevertheless, much of this area is already given over to parking and so the changes would not be significantly different to the existing situation or the arrangement on other nearby sites.
11. The side garden to No.60 would be reduced in size. The Council identify this area as being important in the transition from Bursledon Road to Foord Road. However, it is a relatively small component in the wider street scene and a dwelling would not unduly compromise how either road is seen or their relationship with one another.
12. Whilst the proposed dwelling would be an evident addition to the street scene, the overall outcome would be that it would not draw the eye as being unduly incongruous or visually dominant. I therefore find that it would not be so out of keeping with the prevailing character of the area as to be harmful. In this respect the proposal would accord with Policy DM1 of the EBLP which, amongst other things, requires developments to take account of the character of the area.

Habitats Sites

13. The Habitats Sites referred to in the main issues section of this decision are subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). In brief, these Habitats Sites are easily disturbed by factors such as activity arising from residents of new housing development or discharges from developments which affect nutrient levels in

watercourses that in turn harm the features for which the sites are designated. The Council has tariff/credit-based systems in place for new housing development which enable the necessary mitigations to be provided for new development sites.

14. The appellant indicates a willingness to provide the necessary financial contributions upon any approval. Whilst I have no reason to doubt this intention, where suitable mitigation has not been secured at the point of decision, the Habitats Regulations state that planning permission should only be granted if there are reasons of overriding public interest and suitable compensatory measures are secured. As neither of these prerequisites are met, permission cannot be granted.
15. Consequently, I find that the proposed development could result in harm to the integrity of the Habitats Sites. This would conflict with both the Habitats Regulations and Policy D11 of the EBLP which require such sites to receive the highest levels of protection and ensure that any harm is appropriately mitigated so that development likely to have an adverse effect on nature conservation interests is not permitted.

Other Matters

16. The appeal site formed part of the garden to No.60 Bursledon Road and currently contains various items of paraphernalia such as a greenhouse and washing line. At the time of my visit the vegetation across the site had been cut back/down and as a garden it could be used for a range of purposes incidental to the dwelling. Given the site's context, some wildlife could be expected in the area, but any precautionary approach must be proportionate to the available evidence, which in this case is limited.
17. However, even if I were to conclude that there was no harm to species, habitat or biodiversity, or that any harm could be addressed through planning conditions, this would represent a lack of harm. Accordingly, it would be a neutral factor and so could not be balanced against the harms I have identified.

Planning Balance and Conclusion

18. The proposal would provide one additional dwelling to the local stock of housing in what is said to be a sustainable location. Even if the Council were unable to demonstrate a 5-year supply of deliverable housing land, the harm to the Habitats Sites provides a clear reason for refusal under Paragraph 11 of the National Planning Policy Framework. The scheme would not therefore benefit from the presumption in favour of sustainable development.
19. Whilst there are some beneficial aspects of the scheme and some which would not cause harm, these would not overcome the harms to the neighbour's living conditions nor to the Habitats Sites.
20. Therefore, considered overall the proposal would conflict with the development plan taken as a whole. 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 not succeed.

Stewart Glassar

INSPECTOR