



Appeal Decision

Site visit made on 31 March 2025

by **D R Kay BA Dip.Arch RIBA**

an Inspector appointed by the Secretary of State

Decision date: 21 May 2025

Appeal Ref: APP/M1710/W/24/3358226

Land to the rear of 64 Victoria Road, Alton, Hampshire, GU34 2DE

- 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 Paul Kavanagh against the decision of East Hampshire District Council.
 - The application Ref is 57182.
 - The development proposed is Erection of two-storey detached dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Paul Kavanagh against East Hampshire District Council. That application is the subject of a different decision.

Main Issues

3. The main issues are the effect of the proposals on i) the living conditions for occupiers of the host dwelling 64 Victoria Road and neighbouring properties 62 and 66 Victoria Road with regards to privacy, and ii) the character and appearance of the area.

Reasons

Living Conditions

4. The appeal proposal would introduce a two-storey dwelling within a plot formed from a portion of the rear garden of 64 Victoria Road (No.64). The proposal would sit alongside the detached garage of 66 Victoria Road (No.66), close to the common boundary. The proposal would fill a substantial portion of the width of the plot, though the gap from the proposal to the boundary with 62 Victoria Road (No.62) would be notably wider.
5. The presence of a head height close boarded timber fence to much of the perimeter of the appeal plot, would provide an acceptable level of privacy at ground floor level, both for future residents of the proposed dwelling and for the residents of No.62, No.64 and No.66 Victoria Road.
6. However, the proposal has a substantial window in the rear facing elevation at first-floor level. It would be positioned off-centre of the gable, closer to the boundary with No.66. The position of the window in the gable, coupled to the positioning of the proposed dwelling close to the boundary with No.66, would result in significant

overlooking of the rear garden of No.66 for much of its length, severely affecting the privacy of its occupants. The proposed first-floor window would serve the largest bedroom, a habitable room, which would necessarily be expected to provide a suitable outlook for future occupants, and which would be fundamental to ensuring an acceptable living environment. It follows that it could not reasonably be required to be obscure glazed or additional landscape screening sought by condition and therefore, the unacceptable impact on the privacy of occupiers of No 66 could not be mitigated.

7. The view towards the garden of No.62 is more restricted, partly because of the offset in the position of this window in the rear gable, and partly because of the position of the proposal on the plot. However, the proposal would still overlook a substantial portion of the garden of No.62 to the detriment of the privacy of its occupants.
8. There would be further windows at first floor level on the elevation facing No.62. Two of these would be to bathroom areas which could be suitably conditioned to be obscure glazed. The third would be to a single bedroom and would look out across the car parking area of No.62, any views into the garden area of No.62 being screened by the projecting gable of the proposal, which accommodates the bathroom. I find the relationship from these particular windows would, therefore, be acceptable.
9. The view from the main first-floor rear facing gable window to the garden of No.64 is more distant, would be partially screened by the fence, and could be made acceptable by a suitably worded condition on landscaping to enhance the screening proposed to the shared boundary.
10. The distances between the rear elevation of the appeal proposal and the rear elevations of No.62, No.64 and No.66 range between approximately 20m and 23m. Taking account of these distances and the respective land levels, I am satisfied that there would be sufficient separation distances between windows serving habitable rooms to ensure an acceptable relationship between the buildings (No.62, No.64 and No.66) that would provide suitable levels of privacy for their existing and future occupiers. However, the absence of concern in this respect does not override the harm that I have otherwise previously identified.
11. I have been referred to several nearby properties in Victoria Road and Normandy Street where close relationships with Hunters Mews and the development around Buttery's Court have been previously accepted in circumstances where the appellant considers that overlooking and/or loss of privacy is to be assumed. However, I do not have the full details of the circumstances that led to those proposals being accepted and so cannot be sure that they represent a direct parallel with the appeal proposal. In any case, I have determined the appeal on its own merits.
12. I therefore conclude that the proposal would harm the living conditions of occupiers of No.'s 62 and 66 Victoria Road with regards to privacy of their rear gardens. The appeal proposals are therefore contrary to Policies CP27 and CP29 of the East Hampshire District Council Local Plan : Joint Core Strategy (2014) (the JCS), which require, among other things, that development will not be permitted if it would have an unacceptable effect on the amenity of the occupiers of neighbouring properties

through loss of privacy, and is appropriate and sympathetic in terms of its scale and its relationship to adjoining buildings.

Character and Appearance

13. The appeal site is located within Alton, a market town classified as a Level 1 Settlement in Policy CP2 of the JCS, which defines the spatial strategy for development in the area. As a result, Policy CP1 of the JCS applies to development within the Settlement Policy Boundary (SPB) and has a presumption in favour of sustainable development. The appeal site is situated inside the defined SPB of Alton. Accordingly, the principle of development is therefore supported, subject to meeting the Policies of the JCS and the Alton Neighbourhood Plan (2015) (the ANP).
14. Whilst the LPA has defined the proposals to be an undesirable form of backland development in their decision notice, there are several examples such as Buttery's Court and the former Cinema building on the south-east side of the access lane, and at Hunters Mews, approximately 50m north-east of the appeal site, where such backland development has been allowed. The latter scheme has three dwellings, in line with the position of the appeal proposal, accommodated by the sub-division of the rear gardens of numbers 50 to 54 Victoria Road. The presence of such development is an established feature of the pattern of development within the vicinity of the appeal site, which would assist in its assimilation. However, these properties are some distance from the appeal site, and so the appeal proposal would not be read against them.
15. The proposal is located off an un-made access lane which is situated between properties on Victoria Road and Normandy Street. To the appeal side of the access lane, the properties on Victoria Road are detached residential dwellings of varying ages, styles and heights. The properties have long gardens with either pitched or flat roof garages, or parking spaces at the end of their gardens, taking their access from the access lane. The garages are all single storey in height, though a limited number have rooms within their roof spaces but maintain a single-storey eaves height.
16. To the Normandy Street side of the access lane are the rear of properties which are more commercial in nature, though a number have more recently been converted into residential dwellings. The properties are a mix of two and three storeys in height, in a mixture of architectural styles, sizes and ages. This side of the access lane defines the northern boundary of the Alton Conservation Area (CA). Immediately opposite the appeal site is a recently completed development of two and three storey apartments which abut the access lane, and which are executed in a contemporary architectural style.
17. The appeal proposals would be fully two-storey in height, under a pitched roof. They would follow a contemporary architectural style and would be finished in materials that would relate them well to the new development at the former Cinema on the opposite side of the lane, and therefore, the setting of the CA at this location.
18. However, their design, scale, orientation and full two-storey nature would be completely at odds with the scale and form of the surrounding development on the side of the access lane in which they are situated, which is predominantly single storey, with some limited accommodation within roof-spaces. As a result, the

proposal would be incongruous in its immediate surroundings and would fail to respect the areas particular characteristics.

19. I therefore conclude that the proposal would harm the character and appearance of the area. The appeal proposal would therefore be contrary to Policy CP29 of the JCS and Policy DE2 of the ANP, which require, among other things, that development seek exemplary standards of design that respect the area's particular characteristics, to ensure that development contributes to local distinctiveness and sense of place and is appropriate and sympathetic to its setting in terms of its scale, height, massing, spaces around buildings and landscape features.

Other Matters

20. Pre-application discussions between the appellant and the Council have been drawn to my attention. However, such advice is offered without prejudice to the outcome of a subsequent planning application and without the benefit of site visits or consultation responses. I have, therefore, necessarily considered the appeal proposal on its own merits.
21. The appeal proposal would have a large window at both ground and first floor level in the front elevation. This would face directly across the access lane to a development of recently built apartments approximately 11m away. The closest apartment has three large windows from habitable rooms and an external balcony seating area at this location, which would be approximately level with the first-floor window of the proposal. Whilst this adjacent property was not cited within the Council's reasons for refusal, representation was made by the occupants of this property objecting to the development at the consultation stage.
22. I have already found harm with respect to properties cited in the Council's reason for refusal, and so this relationship is not determinative in my decision in this case. However, in the interest of certainty, having taken account of representation made as part of the original planning application, and having observed the close relationship between the habitable rooms in the first-floor front elevation of the proposal to those in the former Cinema property opposite, I consider the relationship would be detrimental to the privacy of future and existing occupants of both properties.

Planning Balance and Conclusion

23. The council have confirmed their current 5 Year Housing Land Supply (5YHLS) figure as 4.74 years in October 2023. A subsequent appeal has identified the actual position to be closer to 3.59 years. However, recent changes to the mandatory housing supply number for the Council has significantly increased the target, meaning that the 5YHLS is now below the 3.59 years. Accordingly, paragraph 11(d) of the National Planning Policy Framework (the Framework) is engaged for decision making purposes.
24. There are no protected areas or assets as referenced in paragraph 11(d) (i) and footnote 7 of the Framework present on the site. Therefore, the test set out in paragraph 11(d)(ii) applies, which states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, including the key policies cited.

25. The development would have a harmful effect on the privacy of the primary amenity spaces of occupiers of adjacent properties and would also create harm to the character and appearance of the area. Consequently, I have found they would conflict with the Local Plan policies in these regards.
26. The appellant refers to the Local Plan providing support for the development as it is within the Alton Settlement Boundary, is in an accessible location relative to local services, facilities and employment, and would provide an additional housing unit which would be energy efficient. These matters attract moderate weight in favour of the development. The new dwelling would contribute to the supply of housing, but given the modest scale of development, this would provide limited weight in favour of the appeal scheme.
27. The Local Plan and Neighbourhood Plan are more than five years old. However, the policies within the Local Plan, with which the development conflicts, accord with those of the Framework. Therefore, the conflicts I have found attract full weight in this case.
28. As set out above, the benefits attract moderate and limited positive weight respectively in the planning balance. However, I have found that there would be permanent harm caused to the living conditions of neighbouring occupants and to the character and appearance of the area, which attract full weight in the planning balance. The Framework confirms that good design is a key aspect of sustainable development and fundamental to what the planning and development process should achieve. It also requires development to provide high standards of amenity to existing and future users.
29. Consequently, I consider that the adverse impacts of approval of the development at this location, because of its harm to the living conditions of adjacent occupiers and its harm to the character and appearance of the surrounding area, would significantly and demonstrably outweigh the benefits of doing so.
30. For the reasons set out above, I conclude that the appeal proposals would be contrary to the development plan as a whole and that there are no material considerations, including policies in the Framework, that would justify determining other than in accordance with it. Therefore, the appeal should be dismissed

D R Kay

INSPECTOR