



Appeal Decision

Site visit made on 18 April 2023

by J White BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 June 2023

Appeal Ref: APP/X1735/W/22/3305931

Land between 26 and 32 Padnell Road, Cowplain PO8 8DZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Alwyn DeSouza of D & K Contracting Services Limited against the decision of Havant Borough Council.
 - The application Ref APP/21/01041, dated 7 September 2021, was refused by notice dated 28 February 2022.
 - The development proposed is erection of 4 new dwellings associated parking and bin/cycle storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have also dealt with another appeal¹ on this site. That appeal is the subject of a separate decision.
3. The Council has confirmed that the Havant Borough Local Plan 2036 was withdrawn from examination on 16 March 2022, and consequently the emerging policies referred to in its reason for refusal are withdrawn.
4. The appellant submitted drawing number 2021/04 Rev A with the appeal documents. In accordance with the 'Wheatcroft Principles', this further information provides additional clarification and does not result in changes to the scheme. Interested parties and the Council have had an opportunity to comment on the appeal and I am satisfied that there is no prejudice to interested parties in having regard to this information. Accordingly, I have taken this into consideration.
5. Since the refusal of planning permission, the appellant has submitted a signed Unilateral Undertaking (UU) with respect to mitigation payments for recreational pressures and impact of the proposed development on water quality in respect of Solent European Sites. The Council has confirmed that payment has been received and it has advised that the fifth reason for refusal has been withdrawn. Accordingly, I have had regard to this in setting out the main issues below and in the determination of the appeal.

¹ Ref: APP/X1735/W/21/3279615

Main Issues

6. The main issues are:

- (i) The effect of the proposed development on the character and appearance of the area;
- (ii) The effect of the proposed development on the living conditions of the occupiers of 26 Padnell Road (No 26) and 32 Padnell Road (No 32) with particular regard to outlook, privacy, sunlight, disturbance and noise;
- (iii) Whether the proposed development would provide suitable living conditions for future occupiers of plot 1, with particular regard to garden space, and plots 3 and 4 with particular regard to sunlight, and whether adequate cycle storage and refuse collection arrangements would be provided; and
- (iv) The effect on highway safety.

Reasons

Character and appearance

- 7. The appeal site is an enclosed parcel of land situated between No 26 and No 32. It occupies a plot on Padnell Road within a predominately residential area. While there is variety in buildings, dwellings are typically arranged to face the street with a somewhat coherent building line behind enclosed front gardens with generous space for off-road parking.
- 8. Dwellings typically have long rear gardens and are arranged with a relatively even depth of development and rear building line. The arrangement of dwellings fronting the road, and scale and depth of development contributes strongly to the character and appearance of the area. I also noticed at my site visit that some neighbouring properties have outbuildings within the rear gardens. However, these structures are relatively modest and single storey, which results in a spacious character to the rear of properties along this side of the road.
- 9. Whilst plots 1 and 2 would lie in a position that would respond to the general front line of buildings as observed from the street, plots 3 and 4 would lie deep into the plot and in a position considerably beyond the rear elevations of the adjacent residential dwellings, and behind plots 1 and 2. An access drive and parking area would extend into the site.
- 10. Consequently, the position and scale of plots 3 and 4, and mass of the proposal, including the extended access drive and parking areas deep within the site, would be in stark contrast with the linear pattern of development along this side of Padnell Road. The proposal would be seen from the surrounding dwellings and in glimpse views from the street. It would fail to reflect the pattern and depth of development which persists between the row of houses along this side of Padnell Road and would appear at odds with the prevailing built form and layout of the street.
- 11. Paragraph 124 of the National Planning Policy Framework (Framework) advises that planning policies and decisions should support development that makes efficient use of land. However, this should take account of, amongst other things, the desirability of maintaining an areas prevailing character and setting.

12. Nevertheless, the proposal for an area of vehicle parking to the front of the site would not appear inconsistent with the areas of parking at the frontages of properties along Padnell Road. Furthermore, a new boundary would be formed, and a suitably worded condition could secure appropriate landscaping and boundary treatment to ensure the parking area at the front of the site is sympathetic to the character and appearance of the street were planning permission to be granted.
13. The appellant has referred to case examples in the area, including an appeal². My attention has also been drawn to developments at 50 and 111 London Road and 16 Latchmore Forest Grove. However, the appeal was dismissed, and the other examples do not relate to Padnell Road. I noticed during my site visit that the extension to No 32 and the dwelling at 20 Padnell Road are noticeably of a different character and appearance to the appeal scheme, including in terms of their position into rear garden areas.
14. Backland and tandem developments are not, having walked along Padnell Road, particularly evident or common features of the area. There are occasional examples in the wider area, as highlighted by the appellant, but these strike me as being the exception and are not in the same row of properties as the appeal site.
15. As such, I do not find that those developments are directly comparable with the appeal scheme, in terms of the effect on the character and appearance of the area.
16. For the above reasons, the proposal would cause significant harm to the character and appearance of the area. This fails to accord with criteria in Policy CS16 of the HBCS which, amongst other things, seeks a high standard of design and requires that development uses the characteristics of the locality to help inform the design of new development including heights, massing, existing building lines, plot widths and depths. For similar reasons, the proposal would be contrary to paragraph 124 and Chapter 12 of the Framework which requires high quality design.
17. The proposed development would also be contrary to the guidance in the Havant Borough Council Design Guide Supplementary Planning Document (December 2011) (HBCDG), which seeks to ensure development is appropriately designed so that it is sympathetic to local character.

Living conditions – neighbouring occupiers

18. The properties of No 26 and No 32 lie either side of the appeal site. Both dwellings have windows, including patio windows in the rear elevation as well as decking/patio areas adjacent to the dwelling. There is a high close board timber fence along the side boundaries of the site. The rear gardens of No 26 and No 32 back on to a small area of woodland. This, together with the presence of garden areas either side of the properties and the scale and arrangement of adjacent buildings, means that the rear elevations and gardens of No 26 and No 32 are relatively private and quiet and with a sense of spaciousness.
19. Plot 4 would be positioned at an angle to the shared boundary with No 26 and plot 3 would be separated from the boundary with No 32 because of a surface

² Ref APP/X1735/A/07/2055809

water drain that runs along the edge of the site. Nonetheless, and although plots 3 and 4 would be at a lower level and height than the existing dwellings, they would be positioned in close relationship to the rear elevations of the neighbouring dwellings. Due to the proximity and scale of the proposal, they would be conspicuous and overbearing in rear views. Despite the proposed roof design and lower height of the houses, they would create a sense of enclosure to the gardens either side, which are currently open.

20. I appreciate that there is already a degree of overlooking to the rear gardens of No 26 and No 32 from existing neighbours. However, the proposal would bring development further into the site and behind the rear elevations, and would be of a much greater scale than existing buildings within the neighbouring rear garden areas. Whilst first floor windows would be limited and obscure glazed, they would still be openable so a degree of overlooking to the private garden space and rear elevations of No 26 and No 32 would still be possible. Furthermore, the proximity of these windows would allow views from a first-floor level and a position where no such views exist at present.
21. The driveway leading to parking for plots 3 and 4 would be next to the boundary with No 32 and extend along a large proportion of the shared boundary of its rear garden. There would be additional noise and disturbance as a result of vehicles associated with the scheme accessing the parking areas, with increased coming and goings, use of car headlights during periods of darker conditions, and manoeuvres close to the boundary and rear gardens. There would also be impact on the living conditions of No 26 given the proximity of the parking area to its rear garden. Consequently, the current quiet tranquillity of the neighbouring garden spaces would be eroded by the close proximity of the development, including parking spaces and turning area. This would lead to harm to the living conditions of the neighbouring occupiers, with regard to disturbance and noise, despite the presence of a close board timber fence boundary.
22. The proposal would cause a degree of additional overshadowing to the neighbours either side, particularly during the morning in respect of No 26 and the evening in respect of No 32. However, the extent of overshadowing from the appeal scheme would be for a limited period in the day given the course of the sun, orientation of buildings and therefore the direction of shadowing. Accordingly, the proposal would not result in excessive loss of sunlight.
23. Nonetheless, I conclude that the proposal would have a significant harmful effect on the living conditions of the neighbouring occupiers of No 26 and No 32 with particular regard to disturbance, noise, outlook and privacy.
24. Consequently, with regard to this main issue, there would be conflict with Policy CS16 of the HBCS which, amongst other things, requires that development does not cause unacceptable harm to the amenity of neighbours.
25. The proposed development would also be contrary to the guidance contained in Section 5 of the HBCDG, which amongst other things seeks to ensure development of infill sites does not have an adverse impact on neighbouring properties.

Living conditions – future occupiers

26. Paragraph 5.05 of the HBCDG provides guidance for back-to-back distances between new dwellings and neighbouring properties. Whilst plot 1 and plot 3 would not be back-to-back, the guidance seeks to maintain a reasonable relationship between housing and both parties have had regard to it. The guidance says that garden length should normally allow 10 metres between the dwelling and the boundary. In this case, there would be no functional garden space to three sides of plot 1 and the garden proposed to the south side would be shorter than 10 metres. As a three-bedroom dwelling, it would be suitable for a family and there is a reasonable likelihood of children occupying the property.
27. External play space for any child occupier would be limited and the garden space would be of an abnormally small size within the residential area. Furthermore, given the close arrangement of the proposed driveway and parking for plots 3 and 4, and limited depth of the garden, it is likely that there would be unacceptable levels of noise and disturbance to future occupiers of plot 1. Consequently, an inadequate garden space would result in unacceptable living conditions.
28. The appellant contends that areas of open space lie within walking distance of the site. However, such facility would not provide the level of privacy or facilities for day-to-day activities associated with a dwelling. Moreover, due to the inconvenience and additional time taken to reach such areas, they would be unlikely to provide sufficient mitigation for the failure to provide adequate adjacent garden space for occupiers of the proposed dwelling. As a result, the potential to access such areas does not overcome the inadequate living conditions which I have identified above.
29. With regard to light, mature trees that are subject of a Tree Preservation Order lie to the south and close to the rear elevation of plots 3 and 4. The proposed dwellings would have living/dining room windows at ground floor and garden areas to the south side. Given that the trees would lie to the south of the proposed dwellings and gardens there would likely be an effect on available sunlight. In the absence of a sunlight assessment, there is no substantive evidence before me to demonstrate that this arrangement would provide appropriate living conditions for future occupiers of plots 3 and 4 with particular regard to sunlight.
30. The Council state in its officer report that the plans indicate cycle storage for plots 1 and 2 and that cycle storage for plots 3 and 4 could be secured by condition. Furthermore, having regard to the space within the site, I am satisfied that there would be sufficient space for cycle and bin storage. Given this, to ensure the extent of refuse bin storage provided has reasonable access to the highway for collection, details of bin and bicycle storage could be secured by conditions were planning permission to be granted.
31. Consequently, whilst adequate cycle and bin storage could be provided, the proposal would provide unacceptable living conditions for future occupiers of plot 1, with particular regard to garden space, and plots 3 and 4 with particular regard to sunlight. Therefore, the scheme would conflict with Policy CS16 of the HBCS which, amongst other things, requires a high standard of design. For similar reasons, the proposal would also be contrary to Chapter 12 of the

Framework which requires a high standard of amenity for future users. There would also be conflict with the guidance contained in Section 5 of the HBCDG.

Highway safety

32. Padnell Road is a busy through road and a bus route. Dropped kerbs with residential accesses off the road are an established part of the character of the area, and this would be apparent to road users. The scheme would access a relatively straight part of the road behind a pavement, where good visibility is afforded along Padnell Road. Moreover, the access would be in keeping with similar residential accesses in the area and there is no evidence of collisions along this section of the road.
33. The appellant has provided a plan that demonstrates two vehicles can pass at the access. From my own observations on site together with the details provided, and without any compelling evidence to the contrary, I am satisfied there would be sufficient space within the site to ensure adequate internal carriageway width. As such, vehicles would not need to wait on the road and the proposal would not interfere with the free flow of traffic, including buses and emergency vehicles, along Padnell Road.
34. For the reasons set out above, there would be space to provide adequate bin and cycle storage for the proposed development. Although the scheme proposes two more parking spaces than would be required in accordance with the Residential Car Parking and Cycle Provision Supplementary Planning Document July 2016 (RCPCP), these are minimum car parking requirements. An over-provision of parking does not raise concern with regard to highway safety and I can find no policy basis for objection to this.
35. Accordingly, the proposal would not have a detrimental effect on highway safety. As such, with regard to this main issue, there would be no conflict with Policies CS16 and DM13 of the HBCS, which together seek to ensure layout of development is easy to orientate and move through and parking provision in accordance with the RCPCP. I also find no conflict with the RCPCP.
36. Furthermore, I am satisfied there would be no conflict with Chapter 9 of the Framework which states development should only be prevented or refused on highway safety grounds if there would be unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Planning Balance

37. There would be benefits with the construction of four dwellings in a location with good access to facilities and services to serve the day to day needs of prospective residents. Given the small number of units proposed, the contribution would be limited, and I give this factor modest weight. There would be benefits arising from the construction period and future spend of occupants giving support to local services and facilities. Nevertheless, as construction benefits would be short term, and given the scale of the proposal, these factors attract little weight.
38. The proposal would harm the character and appearance of the area, living conditions of the occupiers No 26 and No 32 and would not provide acceptable living conditions for future occupiers of plots 1, 3 and 4. The Framework advises that the creation of high-quality buildings and places is fundamental to

what the planning process should achieve. It also states that developments should be sympathetic to local character and provide a high standard of amenity for existing and future users. Paragraph 219 of the Framework is clear that the weight to be given to local policies depends on their consistency with the Framework.

39. The appeal scheme would conflict with Policy CS16 of the development plan and it as a whole. I give the conflict with this policy substantial weight as it is generally consistent with the Framework.
40. The Council accepts that it is not possible to demonstrate a five-year housing land supply at present. Moreover, the appellant states that the Housing Delivery Test measure shows that the Council's has fallen below 75%. This is not disputed by the Council.
41. The application of policies in the Framework that protect areas or assets of particular importance do not provide a clear reason for refusing the development proposed, as outlined in paragraph 11d)i. Therefore, the presumption in favour of sustainable development outlined in Paragraph 11d)ii of the Framework is engaged.
42. The proposal would align with the aims of the Framework to significantly boost the supply of housing and that small-scale developments can make an important contribution to meeting the housing requirement and different types of need (paragraphs 60 and 69). As a proposal for four dwellings there would be modest benefit.
43. There would be economic and social benefits from the build and occupation of the dwellings as well as support for local services, facilities and the community. The development would make use of underutilised land. Such benefits would be minimal given the size of the development, and I give each limited weight.
44. A finding of no harm in relation to highway safety weighs neither for nor against the appeal scheme.
45. I give significant weight to the harm that would occur to the character and appearance of the area and to the living conditions of the occupiers of No 26 and No 32, and to the inadequate living conditions for future occupiers of plots 1, 3 and 4. The proposal would be contrary to the Framework where it seeks to ensure proposals are sympathetic to local character and provide a high standard of amenity for existing and future users (paragraph 130).
46. Overall, having considered the above factors, the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

Other Matters

47. The appeal site lies within the 5.6km zone of the Chichester and Langstone Harbours Special Protection Area. Notwithstanding the UU and the Council has confirmed that mitigation payments have been received, there is no need to consider the implications of the proposal on the protected site because the scheme is unacceptable for other reasons.

48. An appeal³ within Hertfordshire has been drawn to my attention. Whilst the full details of the case are not before me, from the evidence available that case related to a proposal with a significantly larger number of houses and community development and was not subject to the HBCS policies. As such, I have afforded limited weight to this matter.

Conclusion

49. The proposal would conflict with the development plan and the Framework as a whole. There are no material considerations of such weight 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 be dismissed.

J White

INSPECTOR

³ Ref: APP/C1950/W/22/3294860