



Appeal Decision

Hearing held on 14 September 2004

Site visit made on the same date

by **Gloria McFarlane LLB BA Solicitor**

an Inspector appointed by the First Secretary of State

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Date

28 SEP 2004

Appeal A. Appeal Ref: APP/X1735/A/04/1140565 **Spindrift, Ferry Road, Hayling Island, PO11 0DG.**

- 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 B Battersby against the decision of Havant Borough Council.
- The application Ref 03/59612/001, dated 22 July 2003, was refused by notice dated 10 November 2003.
- The development proposed is a dwelling.

Summary of Decision: The appeal is dismissed.

Appeal B. Appeal Ref: APP/X1735/A/04/11147679 **Spindrift, Ferry Road, Hayling Island, PO11 0DG.**

- 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 B Battersby against the decision of Havant Borough Council.
- The application Ref 04/59612/002, dated 5 January 2004, was refused by notice dated 2 March 2004.
- The development proposed is a dwelling.

Summary of Decision: The appeal is dismissed.

Procedural Matters

1. As the appeals are in respect of the same site and both proposals are similar and raise the same issue, the Parties have agreed that the appeals should be linked and I will therefore consider both appeals in this one decision.

Main Issue

2. In these appeals I consider that the main issue is the effect of the proposal on neighbours' living conditions with regard to outlook.

Planning Policy

3. The development plan for the area includes the Hampshire County Structure Plan 1996-2011(Review) adopted in 2000 and the Havant Borough Local Plan adopted in 1994. Whilst I have been referred to a large number of policies in the development plan, only one policy, policy GDD1 of the local plan, was referred to on the notice of refusal and it seems to me that this policy is the most pertinent to these proposals. Policy GGD1 has a presumption for proposals so long as they satisfy certain specified criteria which include at criterion (a) being sympathetic and appropriate in terms of scale, density, layout, siting, materials and density, both in themselves and in relation to adjacent buildings, features,
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spaces and views; and at criterion (k) would not unreasonably impair the lookout from neighbouring or other nearby properties.

4. I have also been referred to the Revised Deposit Havant Borough District-Wide Local Plan 1996-2011. The emerging local plan has been the subject of a public inquiry and the Inspector's Report was published in June 2004. Policy D4 says that development will be permitted provided certain specified criteria are met. The Inspector has recommended that policy D4 criterion (iii) should be modified from "Respects the outlook from nearby properties and is not overbearing" to "Does not adversely affect the amenities of occupiers of neighbouring properties". As the process towards adoption still has some way to go I give limited weight to this emerging policy

Reasoning

5. The appeal site is located on the south-western tip of Hayling Island. It is immediately adjacent to Langstone Harbour to the north and to the south there is a large car park beyond which lies an area of dunes and shingle leading to the sea. There is some low level chalet development in the area as well as the more prominent Ferry Boat public house and the Langstone Harbour Board building. The only significant trees in the area are around a group of properties on either side of the appeal site. These properties comprise Windsong, a 3 storey house, Sinah House a 2 storey house, The Deck House which is a 2 storey house currently being built and Tamarisk a single storey building. Spindrift lies between Sinah House and The Deck House.
6. The dwelling currently on the appeal site is a single storey, pre-fabricated building which is showing its age. The Appellant has a large sea going boat which was on the slipway at the time of my visit and much of the site is taken up with sheds and storage buildings which appear to relate to the Appellant's boat and his nautical interests. The proposal in both appeals is to demolish the single storey dwelling and erect a 2 storey dwelling comprising ground floor boat storage/garage and 3 bedroom living accommodation on the first floor. The proposal in Appeal A would be some 1m longer than the proposal in Appeal B and would be sited some 2m further to the north.
7. Sinah House lies to the east of the appeal site. A large part of the plot of Sinah House fronts the Harbour which, as would be expected in this area and as applies to most of the properties along this stretch of Langstone Harbour, is devoted to boats and boating. The ground floor also has a large boat/garage store. There is a deck leading from the kitchen/dining room which has splendid views to the north over Langstone Harbour. As Spindrift is a single storey building there is an open aspect from the deck to the north-west but little in the way of views due to the location of the Appellant's boat. A window in the dining area, some 1.6m from the floor level, provides light and a similar open aspect to the north-west. The living room is upstairs and a completely glazed square bay-window which, although set back from the deck, provides similar views and aspects. The living room also has 2 feature port-hole windows some 1.4m above floor level which face Spindrift. The windows currently look over the Spindrift plot to The Deck House and have oblique views to the north-west and south-west. Sinah House was built to a specific design to take advantage of its surroundings and outlook and I consider that the 3 windows that face Spindrift are an integral part of that design and I do not consider them to be secondary windows.

8. In order to provide for the Appellant's requirements for boat storage and his nautical pursuits the proposal would have, in my opinion, a utilitarian and functional appearance that would more resemble a bulky boat store than a dwelling. The ground floor would be some 7.5m high and the building would have a ridge height of some 11.5m. In both appeals the proposed building would overlap the western flank wall of Sinah House which is built close up to the common boundary between the properties. The proposed east elevation would be a solid brick wall with 2 high level opaque glazed windows on the ground floor being the only relieving feature. It seems to me that the occupiers of Sinah House, as they walk into their living room, would look out from the port-hole windows directly onto a brick wall. Similarly there would be a brick wall dominating the outlook from the side window of the bay. I consider that this complete change in outlook from that which currently pertains would be oppressive and overbearing.
9. The balcony proposed on the north elevation of the first floor level of Spindrift would be at the same level as the flat roof of the kitchen/dining room of Sinah House. As the deck of Sinah House leads from the kitchen this would result in the proposed balcony having views directly down onto the deck. I accept that there would be an obscure glazed screen at the end of the balcony in Appeal B and that a similar screen could be required in Appeal A by the imposition of a planning condition but I believe that this would not mitigate the feeling of overlooking and enclosure that would be felt by the occupiers of Sinah House. In addition, I consider that the height of the proposed ground floor and the unrelieved brick work so close to the deck would have an overwhelming effect on any person sitting or standing on the deck. This would be even more evident in Appeal A where the wall would project some distance forward of the deck. The proximity of the eastern flank brick wall would also be extremely obvious from the window in the dining area and in my opinion would be oppressive and overbearing.
10. I concur with the Inspector who stated in his report into objections to the emerging local plan that outlook relates to the immediate vista rather than distant views and is linked to the avoidance of overbearing development. In this case I consider that the proposal would result in an overbearing development that would adversely affect the living environment of the occupiers of Sinah House. It also seems to me that as the outlook from Sinah House would be dominated by a tall brick wall that there would be a less light to the living room and dining room because of the reduction in the amount of sky that could be seen from the west facing windows.
11. I have taken into account that Sinah House currently has an open aspect because of the low level of development on the appeal site. However, from my visit it is apparent that whilst the occupiers of Sinah House 'look over' the appeal site there is no loss of privacy caused to Spindrift because of the nature and location of the buildings on the site. I am not persuaded by the Appellant's contention that the proposals would result in 2 adjacent houses similar in location and proximity to detached houses that could be found on any housing development as the proposals are not for a pair of dwellings but infill development that would have to take into account the existing outlook enjoyed by Sinah House. Nor am I persuaded by the Appellant's contention that in rejecting the proposals he would be denied his right to develop his land in the manner in which he would wish. My attention has been drawn to paragraph 64 of Planning Policy Guidance Note 1 'General Policy and Principles' (PPG1) which among other things refers to the good neighbourliness of development. For the reasons I have given above, I do not believe that either of the proposals would be a 'good neighbour'.

12. I accept that a great deal of thought has gone into the design of the proposals. I also accept that any development on the appeal site would result in a change to neighbours' living conditions on either side of Spindrift and that such change has already been affected by the construction of The Deck House. I also appreciate that the views to the north and south of Sinah House would not be significantly affected by the proposals. However, it seems to me that it would be possible to design a less bulky building that would accommodate the Appellant's requirements and which would also safeguard neighbours' living conditions and comply with the development plan. I consider that the proposals before me would not achieve the latter 2 objectives and I therefore conclude that the proposal would have a harmful effect on neighbours' living conditions with regard to outlook and would be contrary to policy GDD1 of the local plan.

Other Matters

13. I was referred to an Appeal Decision (APP/X1735/A/02/1093600) which concerned a proposal for The Deck House. The decision provided additional information to the background to development in the area and I have taken it into account in so far as it was material to my determination of this appeal which I have in any event considered on its own merits.
14. I have taken into account the letters of support for the Appellant and his proposals. However, local and other support for proposals does not justify the approval of an unacceptable development that would cause the harm I have found.

Conclusions

15. For the reasons given above and having regard to all other matters raised, I conclude that the appeals should be dismissed.

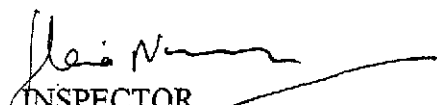
Formal Decision

Appeal A. Appeal Ref: APP/X1735/A/04/1140565

16. I dismiss the appeal

Appeal B. Appeal Ref: APP/X1735/A/04/1147679

17. I dismiss the appeal


INSPECTOR

APPEARANCES

FOR THE APPELLANT

Derek Kingaby Chartered Planning Consultant, 61 South Street, Havant,
DipTP MRTPI PO9 1BZ

Mr Bruce Battersby Spindrift, Ferry Road, Hayling Island, PO11 0DG

FOR THE LOCAL PLANNING AUTHORITY

Mrs Alison Pinkney Senior Planner (Development Control), Havant Borough Council

INTERESTED PERSONS

Richard and Janet Spraggs Sinah House, Ferry Road, Hayling Island, PO11 0DG

Margaret and Ray Stewart 82 Newlyn Way, Port Solent, Hampshire, PO6 4TL

Richard Brown Councillor, Havant Borough Council

Michael Leplar 1 Chichester Avenue, Hayling Island

Emma Poole No address given

P H Bernard No address given

DOCUMENTS

- Document 1 - List of persons present at the Hearing
- Document 2 - Copies of the Council's letters of notification and lists of persons notified
- Document 3 - Representations in response to the letter of notification
- Document 4 - Appendices to the Appellant's statement
- Document 5 - Appendices to the Council's statement
- Document 6 - Extracts from the Inspector's Report into objections to the emerging local plan, submitted by the Council
- Document 7 - Appeal Decision APP/X1735/A/02/1093600, submitted by the Council
- Document 8 - Letter dated 22 June 2004, submitted by the Appellant

PLANS

Plans A-H - Application Plans, Appeal A

Plans I-M - Application Plans, Appeal B