
Appeal Decision

Site visit made on 12 September 2018

by Grahame Gould BA MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd October 2018

Appeal Ref: APP/X1735/W/18/3198509

11 Warblington Road, Emsworth PO10 7HE

- 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 Tim French against the decision of Havant Borough Council.
 - The application Ref APP/17/01089, dated 6 October 2017, was refused by notice dated 14 February 2018.
 - The development proposed is described as 'new build family home (infill development) in the underused LHS of the site'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council determined the appealed application on the basis of the drawings that were originally submitted to it, ie the revision D versions for the: 'proposed site plan; 'proposed floor plans'; and 'proposed elevations'. However, prior to the application being determined revision E versions of the aforementioned drawings were submitted on 28 January 2018. The revised drawings having been submitted in response to design concerns that the Council had made known to the appellant's agent. On 31 January the Council wrote to the appellant's agent advising that it considered further revisions would be required to make the development acceptable¹.
3. The appellant has in effect invited me to determine this appeal having regard to the details shown on the revision E drawings. The Council, as part of its appeal case, has commented on both the originally submitted drawings and the revision E drawings. However, in paragraph 7.3 of its appeal statement the Council has stated '... the plans annotated Revision E were not accepted as a formal amendment to the original proposal' and that the occupiers of the neighbouring properties were not notified of their submission.
4. As the revision E drawings have not been the subject of public consultation, I am of the opinion that my consideration of them would be contrary to the Wheatcroft principles². That is because the occupiers of neighbouring properties could be disadvantaged as they were not provided with the opportunity to comment on the revised drawings and I cannot be certain that they will have appreciated that those drawings could be for my consideration

¹ Email exchanges between the appellant's agent and the Council included as Appendix D in the Council's appeal statement

² Bernard Wheatcroft Limited v Secretary of State for the Environment and Another [1980]

in connection with the appeal. Following the application's determination by the Council, a fresh application containing the revision E drawings could have been submitted, as an alternative to an appeal being made, in line with the guidance published by the Planning Inspectorate³. I therefore consider it appropriate for me to only have regard to the revision D drawings.

5. Further to the appeal's submission the Government published the revised National Planning Policy Framework on 24 July 2018 (the revised Framework). The Council has referred to the revised Framework in its appeal statement and the appellant has been given the opportunity to comment on the revised Framework. I have therefore had regard to the revised Framework for the purposes of determining this appeal.

Main Issues

6. The main issues are the effect of the development on: the character and appearance of the area; and the living conditions of the occupiers of 9 Warblington Road (No 9), with particular regard to outlook and light.

Reasons

Character and Appearance

7. The development would involve the subdivision of 11 Warblington Road's (No 11) plot to enable a five bedroom dwelling to be constructed in No 11's side garden. The dwellings within Warblington Road are varied in design, comprising a mixture of bungalows, chalet bungalows and houses. Many of the dwellings have generous amounts of frontage planting and that helps to soften the appearance of the built development and create a sense of spaciousness. That sense of spaciousness is of significance because Warblington Road has a skewed orientation and that means that the dwellings in this part of the street have a staggered layout relative to one another, with there generally being greater setbacks from the back edge of the footway in the western halves of their plots.
8. The proposed dwelling would occupy much of its plot's width, with there being around 1.0 and 2.0 metre offsets between its side elevations and the boundaries that it would share respectively with Nos 11 and 9. Even though the dwelling's front elevation would have a significant setback relative to No 11, its south eastern corner would be sited around 3.5 metres from the back edge of the footway. That front boundary setback would be significantly less than No 11's. I consider that the dwelling would have a comparatively tight siting relative to its front and side boundaries and when that characteristic is coupled with the dwelling's scale, I am of the opinion it would sit uncomfortably within its plot. I therefore consider this would be an unduly intense form of development within Warblington Road's streetscene.
9. I consider that the tightness of the dwelling's appearance in the streetscene would be accentuated by the fact that the mature tree and shrub planting in the plot's south eastern corner, which makes a positive contribution to the streetscene's leafy character, would be removed. The removal of that planting when coupled with the siting and scale of the proposed dwelling would result in this site having a significantly hardened appearance, which I consider would be detrimental to the streetscene.

³ Annexe M of the 'Procedural Guide Planning Appeals – England' July 2018 (and preceding versions)

10. I recognise that the dwelling would be of a comparatively low density, which would be reflective of the dwellings within the vicinity of No 11. However, my concern with this development is not with its density per se, but rather with the fact that a dwelling of the intended size would lack space about it, most particularly in terms of the siting relative to its front and side boundaries. I consider there to be nothing objectionable about the dwelling's architecture, however, that aspect of the development would not mitigate the harm that I have identified.
11. In finding that the development would unacceptably affect the appearance of the area, I am mindful of the fact that planning permission (reference APP/18/00297, the extant permission) was granted on 28 June 2018⁴ for a three bedroom dwelling within the plot. However, the dwelling subject to the extant permission would be smaller and would have much less mass at first level than the home subject to the appealed application. I therefore consider that the existence of the extant permission does not provide a justification for the appeal scheme.
12. I therefore conclude that the development would cause unacceptable harm to the character and appearance of the area. The development would therefore be contrary to Policy CS16 of the Havant Borough Core Strategy of 2011 (the Core Strategy), paragraphs 124 and 127 of the revised Framework and the Council's Design Guide Supplementary Planning Document of 2011. That is because the development would not be respectful of its context and it would not add to the area's overall quality.

Living Conditions

13. No 9 is a detached house that backs onto No 11's side garden and No 9 fronts onto Kinnell Close. The rear (south western) elevation and garden of No 9 are orientated at an angle relative to No 11's side garden and there are various windows in No 9's rear elevation. No 9's rear garden is not particularly deep. I consider that the height and siting of the new dwelling would lead to the significant enclosure of No 9's rear garden, which would adversely affect the outlook from that external space. A consequence of a loss of outlook from within No 9's garden could be the removal of some or all of the trees within the south west corner of its garden. I consider that would compound the development's adverse effect on the character and appearance of the area that I have identified in considering the preceding main issue.
14. The siting and height of the dwelling would also be likely to have some effect on the outlook from the various windows in No 9's rear elevation. No details concerning the use of the rooms served by those windows have been provided. That said as some of the affected windows are likely to serve bedrooms, which would be likely to be used more frequently after dark, I consider that any adverse effect on the outlook from No 9's windows would be less significant than the situation that would arise in the rear garden.
15. In finding that the development would unacceptably affect the outlook from within No 9's rear garden, in particular, I am mindful of the dwelling subject to the extant permission. However, as the dwelling benefiting from the extant permission would be smaller than the one subject to the appealed application,

⁴ Details for which have been appended to the Council's appeal statement

I consider that the former's effect on the outlook from within No 9's rear garden would not be of the same significance.

16. Having regard to the siting and height of the new dwelling relative to the rear elevation and garden of No 9 there would be some effect on the receipt of light, most particularly within this neighbouring property's rear garden. However, I consider that effect would not be so great as to cause harm to the living conditions of the occupiers of No 9.
17. I am content that the dwelling would be sited sufficiently far away from any of the other adjoining dwellings for its presence not to adversely effect the living conditions of the occupiers of those properties.
18. For the reasons given above I conclude that the development would result in unacceptable harm to the living conditions of the occupiers of No 9 because of the adverse effect on the outlook for those residents. The development would therefore be contrary to Policy CS16 of the Core Strategy and paragraph 127 of the revised Framework and the SPD insofar as it would unacceptably harm the living conditions of the occupiers of a neighbouring property.

Conclusion

19. For the reasons given above I conclude that the appeal should be dismissed.

Grahame Gould

INSPECTOR