
Appeal Decision

Site visit made on 5 June 2018

by Mrs J Wilson BA BTP MRTPI DMS

Inspector appointed by the Secretary of State

Decision date: 19th July 2018

Appeal Ref: APP/X1735/W/18/3196359

Land adjacent to 60 Gladys Avenue, Cowplain, Waterlooville PO 8HS

- 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 Mrs Barbara Gander against the decision of Havant Borough Council.
 - The application Ref APP/17/00651, dated 14 June 2017, was refused by notice dated 22 September 2017.
 - The development proposed is the removal of an existing outbuilding and erection of a 2 bedroom bungalow.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the living conditions of Nos 15 and 17 Lovedean Lane with regard to privacy, outlook, and disturbance; and on future occupiers of the proposed development with regard to amenity space, privacy and outlook.

Reasons

3. The site, former garden to No 17 Lovedean Lane (No 17), is set at a lower level than No 17 or the adjacent property No 15. Both of these properties have been extended and the proposed dwelling would be particularly close to the extended part of No 15. The rear of the property would be between 1.7 and 2.1 metres from the common boundary at its closest point and the structure would be around 8 metres from the extended No 15.
4. Whilst some landscape screening is indicated between the proposed dwelling and No 17, there would still be views from No 17 directly into the appeal site and equally so from the first floor balcony of No 15. These views would not be sufficiently mitigated by the proposed 2 metre fence to No 15 or by maintaining planting to a similar height. The proposal also indicates an existing 2 metre high fence to No 17 when in practice it appears lower than that height. Whilst planting of the type and extent proposed would soften views it would be insufficient to maintain an acceptable level of privacy between the appeal development and the existing properties.
5. The outdoor amenity space associated with the proposed dwelling would be concentrated in the corner of the site closest to Nos 15 and 17 and this would

give rise to a level of activity which would impact on the occupiers of the adjacent properties. Whilst the appellant argues that the bungalow would be modest and occupied by a small family or an elderly person and therefore not likely to contribute noticeably to smells, noise or disturbance, I have to consider all potential occupants. An absence of any impact could not be guaranteed nor would the type of occupation be restricted. The immediate proximity of outdoor amenity space to the private space of adjacent gardens would give rise to potential for noise nuisance by reason of general activity which does not currently exist and which could have an adverse impact on the occupants of neighbouring properties.

6. In this context the arrangement of existing buildings and the proposed dwelling would result in an overbearing and oppressive outlook for the occupants of neighbouring properties and would lead to potential disturbance by way of noise and general activity to the occupiers of both adjacent properties which would result in harm to the living conditions of the occupants. I note that the appellant suggests that the living room (kitchen) window could be removed from the north elevation to alleviate the situation however this would not overcome the fundamental concerns which I have found in relation to the proximity to existing properties.
7. The proposed dwelling would be cut into the site and set very close to the rear and side boundary where the second bedroom window would have an outlook onto a timber fence at a distance of around one metre. The amenity space would be located in close proximity to the site boundaries and would be overlooked from the first floor windows of No 15 and to a lesser but still significant extent from the first floor windows of No 17. The principal bedroom and kitchen windows would also be overlooked and overall these elements would produce a poor level of residential amenity for the future occupiers of the proposed dwelling.
8. I have taken into account the appellant's suggestion that views from No's 15 and 17 would be either oblique or into the far distance. However I inspected both these properties on my site visit and saw that the view from the upper floors would be directly into the development site over the proposed garden. A view would also be afforded into windows on the north elevation and it would not be restricted to a partial view of rooftops as the appellant suggests.
9. Attention has been drawn to the Havant Borough Council Design Plan 2011 which recommends distances of 10 metres and acknowledges some overlooking from upper floors will be unavoidable in most urban housing layouts. Similarly shorter separation distances have been permitted elsewhere in the borough which the appellant suggests sets a precedent. However in this case the creation of an additional dwelling in such close proximity to existing dwellings and private living space presents substantially different challenges to those which may be faced in the creation of a new housing layout. In this instance the relationship with properties beyond the site boundaries would be so close as to cause an unacceptable impact between the proposed dwelling and existing residential properties to the detriment of the occupiers.
10. The Council's concern in relation to the amenity space provision for the new dwelling stems from the fact that it does not meet the minimum distance standard of 10 metres. The scheme falls marginally short of that dimension in that the garden at its maximum depth is 9.3 metres however the appellant

argues that the amenity space wraps around the property and frontage garden provides 132m² which she considers is sufficient compared to a building size of around 59 sq metres. Whilst the garden would be marginally below the recommended standard and would undoubtedly be a small dwelling with a limited garden, it is the arrangement of the space in relation to neighbouring properties which presents the material concern.

11. For these reasons the development would conflict with part e) of Policy CS16 of the Havant Borough Local Plan Core Strategy 2011 and the Havant Borough Council Borough Design Guide SPD 2011 and the National Planning Policy Framework. These policies amongst other things seek to ensure a high quality of design and to ensure that a positive relationship is achieved between existing and proposed developments and does not cause any unacceptable harm to the amenity of neighbours in respect of privacy, outlook, noise or overlooking.

Other matters

12. I have taken into account the appellants comment that bungalows are a predominant characteristic of this part of Gladys Road and that the outlook for the neighbouring properties would be improved as they currently have an outlook over an abandoned piece of land. I saw on my visit that there is a predominance of bungalows on the east side of Gladys Road and that the plot is currently in an unkempt state. Whilst the plot size is smaller than adjacent bungalows and the coverage of the proposed dwelling would be greater by comparison, neither the presence of bungalows or the improvement of an unkempt area are sufficient to outweigh the harm which I have identified in relation to the main issue.
13. I have also noted that there is no dispute between the appellant and the Council in relation to: the principle of residential development in this general location; the impact on the character and appearance of the area; highway considerations; drainage or developer contributions. However agreement on these matters does not lessen my concern with regard to the close proximity of the proposed dwelling to existing dwellings or the unsatisfactory arrangement that would be created between it and adjoining properties.
14. The appellant stresses that housing applications should be considered in the context of sustainable development however part of this consideration is ensuring that development does not create environmental problems for adjacent properties which is my finding in relation to this case.
15. My attention has also been drawn to a complex planning history including previous applications on the site including, the appellant suggests, anomalies in the handling of this and earlier applications including that opportunities to revise the plans was not afforded to the appellant, Furthermore the landowner has not, as the decision notice suggests, had a proactive relationship with the Council. I can understand such frustrations however it is not my role, in reaching a decision on this appeal, to pass comment about the Council's pre-application advice or the manner in which it considered this or earlier proposals. In any event I have made my decision on the basis of the evidence before me in so far as it relates to the appeal submission.
16. The appellant has sought to identify examples of other dwellings which have been permitted close to the appeal site. Some of which were allowed on

appeal¹ and which describe a normal relationship between adjoining houses along a street. This is not the case with the appeal site where the rear of existing properties would have a particularly close relationship with the proposed development. A further reference has been made to a proposed development some distance away at 8 London Road. I have had sight of the plans and elevations however I do not have full details of that application or the circumstances which pertained to it at the time of that decision and I cannot therefore be certain that the circumstances are the same. In any event I have made my decision on the basis of the particular characteristics of the appeal site and the adjacent properties.

17. The appeal is failing because of the harm in relation to the main issue. Consequently, as the development is not going ahead, any alleged harm to the Solent Special Protection Area (SPA) would not occur and thus there does not need to be any means of mitigation by way of a contribution towards the Solent Recreation Mitigation Project in place. Nonetheless a contribution has been made to the Council who have confirmed that it meets the requirements of reason 3 as set out in the decision notice and I do not need to consider this issue further.

Conclusion

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

Janet Wilson

INSPECTOR

¹ APP/X1735/A/08/2068016; APP/X1735/A/08/2.78274; APP/X1735/A/08/2078349