
Appeal Decision

Site visit made on 8 October 2018

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 7 November 2018

Appeal Ref: APP/X1735/W/18/3200672

Land rear of 51-57 Frogmore Lane, Waterlooville PO8 9QN.

- 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 Jason Osborn of Driftstone Developments Ltd against the decision of Havant Borough Council.
 - The application Ref APP/17/01274, dated 28 November 2017, was refused by notice dated 29 March 2018.
 - The development proposed is described as, 4 detached bungalows with associated carports, parking and access and hobby workshop to No.55 Frogmore Lane.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The revised National Planning Policy Framework (the Framework) came into force during the course of the appeal. The parties have been given the opportunity to comment on the implications of the guidance on the appeal, and I have also taken it into account in determining the appeal.

Main Issues

3. The main issues are the effects of the proposed development on:
 - the character and appearance of the area, including trees;
 - the living conditions of occupants at Nos 55 and 57 Frogmore Lane, with specific regard to noise and disturbance; and,
 - the living conditions of future occupants of the proposed dwellings, with specific regard to privacy.

Reasons

Character and Appearance

4. The appeal site largely consists of back garden space to the rear of a number of dwellings facing Frogmore Lane. The bungalows proposed for the site would roughly align with dwellings previously constructed immediately adjacent in Willowside. These have been similarly developed within back gardens, and are accessed via Ash Copse to the south.
5. The proposed dwellings would be more closely spaced than dwellings fronting Frogmore Lane, however the spacing would be very similar to that of dwellings

in Willowside. Given that Willowside provides an existing point of direct reference, the proposed spacing would not appear at odds with the site context, and would not, in itself, cause the proposed dwellings to appear cramped.

6. In contrast to Willowside however, the area to the front of the dwellings would be considerably less open and spacious, notably omitting front gardens. The space would be almost entirely hard surfaced, and accommodate both covered and open parking areas. Parking would therefore dominate the setting of the dwellings, whilst the incorporation and placement of carports within the space would further congest the frontage. This would be particularly true of Plot 4, whose front elevation would be largely obscured by a carport.
7. The combination of tight spacing with congestion of the frontage would produce a lack of balance within the proposed layout. In my opinion this would cause the development to appear cramped as a whole. This would be true notwithstanding mathematical considerations of density. Though the appellants claim that this arrangement is typical of backland developments, this is clearly not illustrated by Willowside, and also appears atypical within the wider area. The proposed development would therefore fail to successfully integrate with its setting, causing harm to the character and appearance of the area.
8. A potentially adverse effect of the development has been claimed on 2 trees in neighbouring land close to the site boundary. These trees are not protected, and in my opinion they make a limited contribution to the visual character of the area. The information submitted indicates that the extent of level change within the root protection areas (RPAs) would be modest, with earth retained by sleepers, and paths surface finished. There is however an unexplained 20% offset of the RPAs shown on Tree Protection Plan, which means that effects that may have been identified in the absence of this offset, have not been considered. This includes foundation digging for Plot 1 within the RPA of T2, and some hard surfacing the RPA of T1.
9. Considered without an offset, the area of the RPA of T2 affected by foundation digging would be both very small and peripheral. The area of potential hard surfacing within the RPA of T1 would likewise be very peripheral. I am satisfied therefore that the risk of harm would be limited, and that a revised method statement could other be requested by condition to further minimise the potential for adverse effects.
10. For the reasons outlined above, I conclude that the development would not be in conflict with Policy DM8 of the Havant Borough Local Plan Core Strategy 2011 (the CS), which amongst other things seeks to secure development that protects natural features such as trees. However, by virtue of unacceptable harm to the character and appearance of the area, it would be in conflict with Policy CS16 of CS, which amongst other things seeks to secure development that responds to, draws inspiration from and respects the local context. Whilst the Council have also listed Policy CS11 of the CS, it does appear to be directly relevant.

Noise and Disturbance

11. Frogmore Lane is one of the larger roads within the settlement. The suburban character of the area however suggests that it sees relatively light use by traffic, and so it appears unlikely to be a source of high levels of noise.

Furthermore, as dwellings adjacent to the appeal are site set well back from the frontage, they are not directly exposed to passing traffic. Moving further back from the frontage into rear garden space, exposure to traffic noise is reduced further, and is largely limited to that of vehicles manoeuvring within driveways.

12. The access to the proposed development would be fitted between No 55 and No 57, following and extending the line of the existing driveways. The access would pass alongside the end wall of No 57, whilst a gap would be left to the side of No 55. A total of 14 parking spaces would be served, 10 of which would be located within the proposed development. Excluding vehicles associated with Nos 55 and 57, this could therefore mean that up to 10 additional vehicles would regularly pass in very close proximity to the 2 dwellings.
13. Exposure to the resulting noise would directly affect the sides of No 57 and to a lesser extent No 55, within which each dwelling features a number of windows, and No 55 a door. It would also affect the windows of principal habitable rooms located in adjacent parts of the front and rear elevations.
14. Relative the existing use of the driveways, and the existing character of the noise environment, the additional noise generated by vehicles using the access would be noticeable, and likely to be significant enough to cause regular disturbance to the occupants. The effects would be exacerbated by the single track nature of the majority of the access, given that the broader section adjacent to the frontages of Nos 55 and 57 would be used by vehicles as a waiting and passing space.
15. Though it is acknowledged that some of the windows in the side windows elevations of the 2 dwellings are either secondary windows, or serve non-habitable rooms, they nonetheless form vulnerable points within the building envelopes, particularly where required for ventilation.
16. The appellant has indicated that the side windows of No 57 could be fitted with acoustic glazing or sealed up. Even if I was to consider that a suggested Grampian condition requiring this was reasonable, it would not entirely remove the adverse effect that a relatively large number of vehicles passing in close proximity to the dwelling would have, or indeed address the impact on No 55.
17. Whilst the installation of an acoustic fence alongside the garden boundary of No 57 has been proposed as mitigation, and this could be extended along the side of the dwelling, no evidence has been provided to show that this would be effective with regard to the noise effects likely to be generated by passing vehicles. The proposed installation might itself be impractical given the inaccessible void that would be created alongside the dwelling. As such it has not been shown that the adverse effects of noise and disturbance generated by use of the driveway could be adequately mitigated.
18. For the reasons outlined above I conclude that the proposed development would have an unacceptable adverse effect on the living conditions of occupants of Nos 55 and 57 by virtue of noise and disturbance. This would conflict with Policy CS16 of the CS, which amongst other things seeks to secure development that does not cause unacceptable harm to the amenity of neighbours through noise. It would furthermore be contrary to paragraph 127(f) of the Framework, which indicates that decisions should ensure

developments create places that provide a high standard of amenity for existing and future users.

Privacy

19. 2-storey dwellings along Yeolls Crescent back onto the site. The rear elevations of these dwellings are currently heavily screened by vegetation. This screening would however been substantially reduced or removed as a result of the proposed development. As such a degree of inter-visibility would exist between the first floor windows of the existing dwellings and windows in the rear elevations of the proposed dwellings.
20. Guidance within the Havant Borough Council Borough Design Guide Supplementary Planning Document 2011 (the SPD) recommends a minimum 20 metre back-to-back distance between dwellings. Though the Council also quotes the second bullet of paragraph 5.05 of the SPD, this is not relevant to the appeal scheme given that it relates to development involving buildings of greater than 2-storeys height.
21. According to the Council there would be a minimum of 20 metres between the rear elevations of the proposed dwellings and the rear elevations of dwellings along Yeolls Crescent. As such the scheme would comply with the expectation set out within the SPD. Furthermore all of the proposed dwellings would be dug-in, with eaves level set below that of the boundary fence. This would mean that the angle of view between dwellings would be such that the potential to see into the proposed dwellings from windows in Yeolls Crescent would be minimal. There would also appear to be little or no potential for clear views through the proposed lantern lights. Views from the proposed dwellings towards those in Yeolls Crescent would be similarly limited. Increasing the height of the boundary treatment could nonetheless provide some additional screening, and this could be addressed by an appropriately worded condition.
22. Some overlooking of the rear garden spaces of the proposed dwellings would clearly arise. However as noted within the SPD, this is an unavoidable feature within most urban and suburban layouts. It does not appear uncharacteristic of the area in general, and could again be mitigated through careful specification of the boundary treatments.
23. For the reasons outlined above I conclude that the proposed development would not have an unacceptable adverse effect on the privacy of future occupants of the proposed dwellings by virtue of overlooking. The development would not therefore be in conflict with Policy CS16 of the CS, which amongst other things seeks to secure development that does not cause unacceptable harm to the amenity of neighbours through overlooking; or the SPD.

Other Matters

24. My attention has been drawn to paragraph 68 of the Framework, and in particular part (c) which notes that great weight should be given to the benefits of using suitable sites within existing settlements for homes. In this case however, the suitability of the site has not been demonstrated by the proposed design, given the harm the development would cause identified above.
25. Both parties agree there is a need to contribute towards mitigation of potential impacts on the Solent Special Protection Area. In this context the Council indicates that the appellant has made a financial contribution secured by a

section 106 agreement, however the Council indicates that it is insufficient with regard to currently adopted guidance. Given my findings on the main issues however, this is not a matter I need to address further.

26. Records relating to approval of backland development at another site (reference APP/17/00530) have been drawn to my attention. Whilst I note that this was similarly accessed via a driveway between existing dwellings, the scheme was for fewer dwellings, and the layout and setting of the site differed from that of the appeal site. As such it is not directly comparable. Consequently my consideration of the planning merits of the appeal scheme has been unaffected.

Conclusion

27. Whilst I have concluded that the proposed development would not have an unacceptable adverse effect on the privacy of future occupants, I have nonetheless also concluded that it would have an unacceptable adverse impact on the character and appearance of the area, and on the living conditions of occupants at Nos 55 and 57. As such, for the reasons set out above, and with regard to all other matters raised, I conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR