

Appeal Decision

Site visit made on 28 August 2018

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2018

Appeal Ref: APP/X1735/D/18/3205179

48 Havant Road, Emsworth PO10 7JG

- 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 Claire Coles against the decision of Havant Borough Council.
 - The application, Ref. APP/18/00151, dated 3 February 2018, was refused by notice dated 25 May 2018.
 - The development proposed is the erection of a replacement detached workshop.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed workshop on the living conditions for the occupiers of No. 46 Havant Road with particular reference to outlook.

Reasons

3. The officers' recommendation on the appeal application was to grant permission subject to conditions including compliance with the submitted plans; restriction of the building's use for the parking of boats and / or cars at all times with no business use, and the prior approval of external materials. This recommendation was not accepted by the Development Management Committee and the application was refused by Members because it was considered that the building would be excessively bulky and thereby detrimental to the outlook from No. 46.
 4. In assessing the appeal scheme I have had regard to the evaluation and favourable recommendation in the officers' report and the grounds of appeal on the one hand and the committee minutes / formal decision and the third party objections on the other. However, these considerations are themselves to some extent informed by the legislative background in the form of the permitted development regulations (PD) in respect of outbuildings, in particular within the curtilage of a detached house, as is the case here.
 5. PD is generous in terms of site coverage in that it allows up to 50% of the total area of land around the original house to be covered by outbuildings or other additions. On the other hand, it is much more restrictive in terms of their height as, amongst other matters, the rule is that if the outbuilding is within 2 metres of the property boundary *the whole building* should not exceed 2.5 metres in height (my emphasis).
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6. In this case planning permission is in fact required and this allows a more flexible approach, with the planning judgement informed by all relevant material considerations. However, the PD system of deemed planning permission is analogous to the extent that it indicates that whilst there is a fairly relaxed approach to the extent of ancillary floor space incidental to the enjoyment of the property, there is also a recognition that the height of any such building when in close proximity to its neighbours is a much more sensitive issue because of its potential effect on the outlook from the adjoining property.
7. Bearing these factors in mind, I note that whilst recommending approval the officers' report acknowledges that *'the proposed workshop would be fairly large in size'* (this being the second such comment as to its size); *'would have a relatively high ridge height of approximately 4.45m'*, and that following a site visit to No. 46 *'it was agreed that the development had the potential to appear over-bearing to the neighbouring dwelling and in particular the ground floor kitchen window'*.
8. I acknowledge that the concerns as to size and ridge height were balanced by positive factors and that the potential for the building to be over-bearing was considered by officers as having been satisfactorily addressed by negotiated amendments. These comprised a re-siting 3m further into the rear garden; a reduction in overall height, including the ridge and eaves, of 420mm; a reduction in length of 1.04m, and the relocation of rooflights to the west elevation.
9. However, whilst I accept that these are material improvements towards the reduction in the building's impact when seen from No. 46 and can understand why the approval recommendation was made, I nonetheless have remaining concerns as to the effect on the outlook from that dwelling. As can be seen from the Block and Site Plans, the shared boundary between Nos. 48 and 46 is cranked between the flanks of the two dwellings with the result that the proposed workshop at just 0.9m away from that boundary is further within the line of sight from the rear windows and the seating area of the patio of No. 46.
10. This distance of 0.9m would be well within the 2m area of concern flagged up in PD limits as the degree of proximity that warrants the additional restriction on height compared to the rest of the plot, and although that restriction does not apply when planning permission is sought, the constraints I have referred to in paragraph 6 above assume a greater importance. Moreover, although the roof would slope away from the boundary, to continue with the analogy to PD it is the 'whole building' that would be seen in the outlook from the kitchen and other windows in No. 46 and the patio.
11. The officers' comments on the fairly large size of the building and its relatively high ridge apply to the negotiated amended proposal rather than its predecessor, and because the view from the rear windows at No. 46 towards it are slightly oblique the height of almost four and a half metres over the building's full length of just over 8m would be readily apparent.
12. Furthermore, with its asymmetric roof and external materials similar to those in the contemporarily designed host dwelling, I consider that the workshop would draw the eye in a way that a more conventional outbuilding would not. Because of its unconventional appearance for an outbuilding, this prominence would

combine with its relatively large scale for the workshop to be reasonably perceived as a visually intrusive feature in the outlook from the rear windows and garden of No. 46. The perception of the occupiers of No. 46 is that this intrusion would be unacceptable and on balance I consider that this is a reasonable assessment.

13. I have carefully considered the grounds of appeal and acknowledge that it is only on the issue of the outlook from No. 46 that the appeal scheme fails, with matters relating to the alleged overdevelopment of the site, the potential use as a workshop, a loss of light, the appearance from Havant Road and other issues having in my view either no or insufficient substance to weigh against the proposal. The Council has not explained why the words '*and amenities*' are included in the Notice of Refusal and without further explanation the term is meaningless.
14. The grounds of appeal refer to a 'similar appeal' at 52 Havant Road, but it is the particular circumstances of the case before me that has led to my Decision. Reference is also made to a section of the Council's 2011 Design Guidance SPD, but my reading of that guidance is that it relates to minimum back to back distances for new infill residential development, rather than as is the case here, the outlook over an adjoining rear garden in a linear and low density established residential environment.
15. I have had regard to all other matters raised, but my overall conclusion is that because the proposed workshop would be insufficiently subordinate as regards its scale and design there would be an unacceptable effect on the living conditions for the occupiers of No. 46 Havant Road with particular reference to outlook. This would be in conflict with paragraph 1e) of Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and Section 12: 'Achieving Well-Designed Places' of the National Planning Policy Framework 2018.
16. For these reasons the appeal is dismissed.

Martin Andrews

INSPECTOR