Appeal Decision

Site visit made on 29 July 2010

by Richard J Maile BSc FRICS

an Inspector appointed by the Secretary of State for Communities and Local Government

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Decision date:
2 September 2010

Appeal ref: APP/X1735/A/10/2125827
45 Rails Lane, Hayling Island, Hampshire, PO11 9LH.

- 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 & Mrs B Symmonds against the decision of Havant Borough Council.
- The application ref: 10/51627/000, dated 11 January 2010, was refused by notice dated 19 March 2010.
- The development proposed is erection of 1no 1 bed detached bungalow to rear.

Decision

1. I dismiss the appeal.

Main Issues

2. From my inspection of the appeal site and surrounding area and consideration of the representations, I am of the opinion that the principal issues in this case are:

   a) The effect of the proposal upon the character and appearance of the surrounding area.

   b) The impact of the development upon the living conditions of nearby residents.

Reasons

a) Effect upon character and appearance.

3. The property comprises part of the garden of 45 Rails Lane, which is one of a pair of semi-detached inter-war houses. It is located within an area of mixed residential development including housing, bungalows and modern flats. There are a number of instances of backland development within the locality including a recently completed proposal opposite the appeal site to the rear of 56 Rails Lane. This was allowed on appeal (ref: APP/X1735/A/06/2014281 dated September 2006). I have been supplied with a copy of that decision letter and the approved plans.

4. Policy D1 of the Havant Borough District Wide Local Plan 1996-2011 is a "saved" policy. It requires a high standard of design in terms of siting, massing, scale and layout which creates an attractive environment and which

respects and enhances local character. Proposals should also ensure the efficient use of land.

5. Following submission of the appeal both parties were afforded the opportunity of commenting upon recent amendments to *Planning Policy Statement 3: Housing*, including the definition of Previously Developed Land (PDL) in Annex B. The site of the proposed bungalow is largely covered with hard surfacing and a number of substantial buildings. I therefore consider that, although part of the garden of 45 Rails Lane, the appeal site can nevertheless be classified as PDL. The site is within the built-up area and largely surrounded by residential development with a variety of dwelling types and some backland development.

6. The submissions on behalf of the appellants include details and photographs of other backland developments in the locality. In most cases the Ordnance Survey extracts provided give an indication that those plots are larger than the appeal site. In particular, the appeal site is of restricted width. This limits the availability of amenity space provision for future occupiers and requires the bungalow to be sited to the north of the plot adjacent to the garden of no. 47.

7. Given the restricted size of the plot, the detailed scheme before me would appear cramped and out of character with the surrounding area. I have therefore concluded on the first issue that development as proposed would be contrary to the objectives of Policy D1 of the Local Plan.

b) Impact upon living conditions of nearby residents.

8. 45 Rails Lane possesses a garage adjacent to the common boundary with no. 43 to the south, together with an area of hard surfacing to much of the front garden, which is used for the parking of cars. The garage and sun lounge to the property would be removed to allow access to the proposed bungalow.

9. During my site visit I noted that there are no window or door openings to the flank (north) elevation of no. 43, and that there is already vehicular activity within the front garden of the subject property. Subject to the provision of 1.8m high close boarded fencing between the garden of no. 43, plus a similar fence between the area of garden remaining to no. 45, I consider that use of the proposed access to serve a small dwelling would not have an unacceptable impact upon the residents of these two properties.

10. The drawings submitted to me include elevations of the bungalow. There is a hedgerow between the gardens of 2 Harold Road and the appeal site. Provided this is retained, I consider that the amenities of residents of no. 2 would be unaffected by the proposal. I am also satisfied, given the height of the bungalow and its siting to the rear part of the garden of 47 Rails Lane, that it would not appear overbearing or affect the outlook or privacy of existing and future occupiers of that property.

11. Subject to the provision of suitable screen fencing and the retention of the existing hedgerow where possible, I have concluded on the second issue that development as proposed would not adversely affect the living conditions of nearby residents as required by Policy D1 (iv) of the Local Plan.

Section 106 Requirements

12. The Council's second reason for refusal relates to the failure to provide an Undertaking under section 106 of the Town and Country Planning Act 1990 to meet the requirements of "saved" Policies T10 and IMP1 of the Local Plan.

13. The representations provided to me suggest that a sum of £1,980 is required towards the County Council's contributions policy, the monies being spent on improvements to transport and highways within the Borough of Havant.

14. I understand from the correspondence forwarded to me that the appellants are willing to enter into such an agreement to address this issue. However, to date I have not been provided with a copy of a completed Section 106 Agreement or Undertaking.

Conclusions

15. The appeal site is situated within an area of mixed residential development. I also acknowledge that there are some examples of backland development within the locality. However, for the reasons detailed above the scheme before me would appear cramped and out of character with its immediate surroundings. It also possesses very limited space about the dwelling, which fails to provide adequate amenity space for future occupiers.

R. J. Maile

INSPECTOR