



Town & Country Planning Act 1990

Section 78 Appeal

by

Mrs L Montague

**Against the decision of Havant Borough Council to refuse
planning permission for the erection of a dwelling**

**'Tamarisk'
Ferry Road
Hayling Island
Hants
PO11 0DG**

Local Planning Authority Reference: APP/15/01355

The Appellant's Statement of Case

Ref: HAPL1098 / September 2016

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1. Introduction

- 1.1 This appeal relates to a proposal by the appellant to provide a replacement dwelling to provide a family home upon this site within the existing confines of West Hayling.
- 1.2 The appellant appointed an award-winning architectural practice to design a dwelling which would make a positive contribution to the character of West Hayling whilst protecting the local sensitive environment and the amenities available to the occupiers of the adjacent dwelling 'The Deck House'. John Pardey Architects began with a series of one-off houses, and the practice continues to regard this as a vital part of their work. Pooley House is one such dwelling which was completed in 2010, and received a RIBA award in 2012. Lying on the south-east corner of Hayling Island with views across Chichester Harbour it is an important coastal new build house that contributes positively to the appearance of the coast.
- 1.3 The architects engaged the Local Planning Authority in pre-application discussions and spoke to the occupier of that adjacent dwelling. It is understood that the occupier was involved in that process by the planning Case Officer.
- 1.4 More details of the pre-application process, leading to the submission of a planning application on 1 December 2015, are set out in the third section of this statement.
- 1.5 Following submission the Architect responded to representations made by the occupier of Deck House and their supporters and engaged the Local Planning Authority to agree significant changes to the design as a result. The other immediate neighbour, LHB, who raised no objection, were also kept informed about the proposals.
- 1.6 The submitted proposals went before the Development Management Committee with an officer recommendation to grant planning permission.

2. The Site and Surroundings

- 2.1 The site is at the western end of Ferry Road and contains a vacant two-bedroom, single storey dwelling.
- 2.2 There is a water frontage to the north which is also enjoyed by the occupiers of other dwellings to the east, including 'The Deck House'.

- 2.3 Those dwellings are predominantly two storey units.
- 2.4 The existing bungalow is set back from Ferry Road on a deep plot with a slipway onto the harbour.
- 2.5 There is a substantial two storey house to the east which has two windows, one serving a toilet and the other a bathroom, facing the appeal site.
- 2.6 To the west and south lies the Ferry Boat Inn, public toilets and a car park with Sinah Common and the golf course beyond. The LHB boatyard is to the west.

3. Planning History

- 3.1 An outline application was made in 2011 for a replacement two-storey four bedroom dwelling on the application site (APP-11-00129). The local planning authority recommended refusal due to the absence of a flood risk assessment and it was subsequently withdrawn.
- 3.2 The substantial dwelling on the adjacent site 'The Deck House', was permitted in 2003 (APP/03/61550) as a replacement dwelling.

4. The Proposed Development and the Decision

- 4.1 It is proposed to demolish the existing dwelling and erect a replacement two storey dwelling with associated landscaping and improvements to sea defences.
- 4.2 The proposed dwelling is of contemporary design with an open plan living/dining/kitchen area to the north and master bedroom suite to the south both at first floor level. At ground floor level there is a day room which addresses the Harbour, a wet changing room, 3 further bedrooms and integrated single garage with cycle store. It would be constructed of dark bricks with white stained timber above. The house has been carefully designed to respond to its immediate context and is therefore very much site specific. The house is sensitively repositioned away from the Harbour to respect the building line established by more recent neighbouring dwellings to the east. To ensure that the existing slipway can remain functional the house is long and thin and positioned toward the east of the site whilst maintaining a comfortable separation from Deck House.

- 4.3 A large first floor terrace will be located off the main living/dining/kitchen area with full height glazing serving that area. This terrace would wrap around the northern and western sides of the proposed dwelling. The western facing part away from The Deck House, is much the largest part and would be the focus of use by the occupants, given its exposure to sunlight and proximity to the staircase in the north west corner. The short north-facing part of the terrace terminates 4.5m from the party boundary with The Deck House.
- 4.4 Following discussions between the appellant's Architect and the planning Case Officer significant changes were made to the original submission in order to address concerns raised and to improve the design without diminishing the quality or architectural integrity of the proposed scheme.
- 4.5 An architect's statement accompanied the revised planning drawings and referred to changes to elevations and planting and alterations to the design to minimise impact upon the amenities available to the occupiers of 'The Deck House'.
- 4.6 The spiral stair was removed from its prominent position and replaced by a straight flight stair discreetly located on the west flank away from the more sensitive north elevation.
- 4.7 In addition the first floor terrace was shortened by a metre by moving the north wall of the single storey volume 1 metre to the south.
- 4.8 The first floor terrace of 'The Deck House' is only about 1.5m from the party boundary and this close proximity is addressed by the careful positioning of the proposed two storey volume which screens the neighbouring terrace and prevents direct overlooking. Because of the close proximity of the balcony to the boundary with the application site condition (5) of the planning consent for Deck House required that a 1.8m high obscure glass screen be erected and maintained at the north west corner of the balcony. It is noted that this condition does not appear to have been complied with as a screen of little more than 1m high is currently in place. (decision & photo in appendix).
- 4.9 Although the Local Planning Authority did not express concerns about issues of daylight, sunlight and amenity during pre-application discussions, GIA were commissioned to undertake an assessment of the proposals in respect of Daylight and Sunlight in accordance with BRE guidelines.

Their report accompanies this statement and it concludes that “the current proposal has no impact on the daylight and sunlight of ‘The Deck House’ or any other residential property. We therefore find the proposed development acceptable in terms of daylight and sunlight”. GIA have provided a letter following refusal of the application which accompanies this statement.

4.10 The officer report upon the planning application also considered the effect upon neighbouring properties and concluded that the submitted proposals complied with the Borough Design Guide in terms of avoiding loss of light and outlook to neighbours.

4.11 Nonetheless, following a meeting on-site on 21 April 2016 of the Site Viewing Working Party, the Development Management Committee on 28 April 2016 refused the planning application for the following reason:

“the proposed development would result in excessive building bulk adjacent to an existing property detrimental to the visual outlook and amenities of occupiers of this property by reason of over-bearing impact, loss of light to the ground floor accommodation and loss of privacy to private amenity space. The proposal is therefore contrary to Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012”.

4.12 Section 6 will address these three grounds for refusal – building bulk and overbearing impact, loss of light, and loss of privacy – and demonstrate that the proposed dwelling is in fact compliant with planning policy, and with good design that minimises impact on the neighbouring property.

5. Planning Policy Context

5.1 This planning application raises a number of planning policy issues namely the principle of development, visual amenities and the character of the area, effect on nearby dwellings, flooding, ecology and highway transportation considerations.

5.2 The proposed development involves the re-use of a previously developed site which accords with Section 6 of the NPPF relating to the delivery of high-quality homes in a sustainable way.

- 5.3 The site lies outside the urban area (Policy AL2 Urban Boundaries & Undeveloped Gaps between Settlements) but the proposal involves the replacement of an existing dwelling on the site.
- 5.4 Section 7 of the NPPF and Policy CS16 of the Core Strategy 2011 emphasise the importance of good design and the Borough Design Guide states that development should respond to local context and respect existing features of natural, historic, or local character within or close to the proposed development site.
- 5.5 The submitted Design & Access Statement sets out a contextual analysis that demonstrates how the design of the proposed dwelling was developed to ensure a building that would make a positive contribution to the appearance of West Hayling. Section 7 of the Design and Access Statement sets out the key steps in developing the design of the dwelling, which itemises the importance of context.
- 5.6 The appeal proposals were supported by a Landscape & Visual Impact Assessment which assesses the development from the surrounding area and demonstrates that it will not result in an adverse visual impact in the wider landscape.
- 5.7 Thus the development proposal complies with Policy CS16 and the Borough Design Guide and paragraph 109 of the NPPF which seeks to protect valued landscapes.
- 5.8 The impact upon the amenities available to the occupiers of the neighbouring dwelling will be dealt with in more detail in the next section of this statement since it is the sole basis for the refusal of the application.
- 5.9 However it is important to stress that it is considered that the proposals comply with Policy CS16 of the Core Strategy and those of the Borough Design Guide in that notwithstanding the reason for refusal, the proposed dwelling is of similar footprint and scale to the adjacent dwelling and others in the same frontage. It has been designed with close attention being given to the contents of the Borough Design Guide to prevent materially adverse impact on the amenities available to any existing dwelling including that upon the adjacent site.
- 5.10 The site lies within Flood Zones 2 and 3 and the application was supported by a Flood Risk Assessment (FRA).

- 5.11 The proposal is for a dwelling with raised floor levels that will provide a safe haven against the predicted 2115 sea level. Also the FRA makes it clear that a new reinforced concrete wall flanking the slipway will be installed and it recommends that the site owner signs up to the EA Flood Warning Service.
- 5.12 The applicant has been advised that the production of a Flood Warning & Evacuation Plan (FWEP) for the development would be a wise thing to do.
- 5.13 It is considered the proposals thus comply with the Technical Guide to the NPPF (Para 9) and Section 10 in the NPPF dealing with flooding issues and climate change etc.
- 5.14 Since the site abuts the foreshore of Langstone Harbour that is protected with a series of nature conservation designations the application was supported by a preliminary Ecological Appraisal. Also a Phase 2 Reptile Survey has been undertaken.
- 5.15 It is considered that the proposed development will not adversely affect the nature conservation assets referred to subject to appropriate precautions being taken during implementation of the development.
- 5.16 It is considered that the proposals are satisfactory in terms of highway issues since the proposed access to the scheme is in a similar location to the existing access with adequate parking and turning facilities within the site.
- 5.17 It should be emphasised that the Statutory consultees, Environment Agency, Highway Authority and Natural England raised no objections to the proposals.
- 5.18 Core Strategy Policy CS6 supports the physical regeneration of areas of the Borough, with the Hayling Seafront Masterplan providing a practical but inspired vision of how the Hayling Island seafront could be regenerated.
- 5.19 In order to give it a higher profile The Hayling Seafront Masterplan was approved as a material consideration in determining planning applications at Cabinet on 13 June 2012. The re-development of this site with a well-designed house would contribute positively to the regeneration of Hayling Island seafront.

6. Consideration of the Case for Planning Permission being granted

- 6.1 In bringing forward the proposals great care has been taken to address a range of complex issues, the details of which are addressed in the previous section of this statement. In that section there is comprehensive reference to the technical documents submitted in support of the planning application. The range and thoroughness of the technical documents referred to in section 5 of this statement are evidence of this care.
- 6.2 Essentially, the appellant seeks to make the best use of the site which contains an existing dwelling in the same way that was achieved on the site to the east.

Bulk/Impact

- 6.3 Whilst the eaves height of the proposed dwelling would exceed that of 'The Deck House', the overall height is well below the ridge height of 'The Deck House'. Also the height of the proposed chimney on the eastern elevation has been reduced in height since the initial submission.
- 6.4 The Local Planning Authority have not provided any evidence to support their assertion that the proposed dwelling would create excessive building bulk. A comparative analysis of external volume, gross external area and plot size has been undertaken and is set out below to demonstrate that the proposed house is not excessive in scale and volume compared to the neighbours.
- External Volume: (East to west): Windsong-670m³, Sinah House – 750m³, Spindrift - 1020m³, Deck House – 860m³, Tamarisk – 930m³, LHB – 1250m³. (Figures include roofs, chimneys, external walls, integrated garages but not external balconies or porches etc.)
 - Gross External Area: Sinah House – 325m² including basement storage (plot 820m², 40%), Spindrift – 260m² (plot 670m², 39%), Deck House – 255m² (plot 600m², 43%), Tamarisk – 290m² (plot 730m², 40%). The % figures are GEA as a proportion of plot size taken from planning drawings and plot sizes from google earth other than Tamarisk taken from our Sketch-Up 3D model.

The % figures are gross external area as a proportion of plot size. Note also that for neighbouring properties figures are approximate: gross external areas and volumes of neighbouring buildings are based on submitted planning drawings and sizes of neighbouring plots are based on Ordnance Survey Data. Figures for the application site are based on topographic survey and CAD data."

6.5 It is thus not accepted that the proposed development would result in excessive building bulk adjacent to the property to the east.

6.6 The planning context of this issue is addressed in paragraph 5.9 of this statement.

Light

6.7 It is understood from subsequent discussions with the Case Officer since the application was refused, that the planning committee considered that the two storey elements of the proposed dwelling should be greatly reduced to avoid loss of light to a study window in 'The Deck House' and to protect the outlook from the balcony at the north of that property. A subsequent letter from GIA accompanies this statement. Attached is a copy of an email dated 23 June 2016 from the planning case officer which sets out concerns raised by councillors which explains why the application was refused. It should be noted that she refers to loss of light to "lounge and study" neither of which have windows facing the appeal site.

6.8 The GIA Daylight & Sunlight Assessment concludes that the current proposal has no impact on the daylight and sunlight of 'The Deck House' or any other residential property. A subsequent letter from GIA accompanies this Statement.

Privacy

6.9 'The Deck House' is a substantial two storey dwelling upon a fairly narrow site which for a considerable time has enjoyed an unrestricted outlook across the appeal site.

6.10 Nonetheless, great care has been taken in the design of the appeal proposals to protect the outlook and privacy enjoyed by the occupiers of that property in accordance with the Council's very detailed Borough Design Guide. Material issues are addressed in paras 6.11 to 6.16 of this statement.

6.11 It is understood from subsequent discussions with the Case Officer since the application was refused, that the planning committee considered that the two storey elements of the proposed dwelling should be greatly reduced to protect the outlook from the balcony at the north of that property.

6.12 Also it was considered necessary by the Committee to reduce overlooking from the proposed terrace giving a view into the rear garden of 'The Deck House'.

- 6.13 Regarding the outlook from the existing rear balcony on The Deck House, it is clear that the main outlook is to the north with uninterrupted views to the water. Deck House has a full width balcony on the north elevation serving two first floor bedrooms. The balcony is clearly orientated with the main outlook being northwards and enjoys uninterrupted views of Langstone Harbour. The balcony has also benefitted from a relatively unrestricted outlook across the appeal site because of the absence of the privacy screen referred to in section 4.8 above.
- 6.14 It is not accepted that the outlook from the proposed rear terrace would lead to material overlooking having regard to its distance of 4.5m to the party boundary. The terrace will be largely enjoyed along its western side where it is exposed to sunlight, and the north western corner where the stairs are, rather than the short eastern end of the north facing part.
- 6.15 The applicant would be prepared to accept a planning condition requiring an obscure privacy screen 1.5m in height on the short east-facing edge of the terrace to address any potential overlooking of Deck House.
- 6.16 It is important to emphasise the substantially larger distance of the proposed terrace from the party boundary (4.5m) to that of the balcony on the Deck House (1.5m). Thus greater privacy would be provided to The Deck House than is afforded the application site from The Deck House.
- 6.17 In the context of the detailed advice provided by officers about compliance with the Council's Design Guide in the Committee Report (paras 7.5-7.7) the appellant will consider whether to pursue a claim for costs after carefully considering the Council's case.

7. Conclusions

- 7.1 The submitted scheme has been brought forward by an award-winning architect who has worked closely with the Council Officers and sought to address legitimate concerns raised by the occupier of the adjacent house in the design of this high-quality scheme.
- 7.2 Complex issues are raised by the proposals and a range of specialists contributed to the preparation of the appeal proposal. Nonetheless the reason for refusal identifies simple issues that have been comprehensively addressed in the three sub-sections of Section 6 of this statement, dealing with Bulk/Impact, Light and Privacy.

- 7.3 It is considered that the proposed dwelling would make a positive contribution to the area and provide a high quality family house. As set out in the previous section of this statement the Design and Access Statement explains how the design of the scheme has had regard for existing developments in West Hayling and all relevant planning policies both local and national.
- 7.4 The planning application was refused by the planning committee by a majority of 7 to 2 despite the officer's recommendation to approve it based on their comprehensive assessment of policies including design requirements.
- 7.5 It is respectfully considered that the appeal should be allowed.