The Planning Inspectorate

Appeal Decision

Site visit made on 27 June 2013

by Nick Fagan BSc(Hons) DipTP MRTPI

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

Decision date: 29 July 2013

Appeal Ref: APP/X1735/A/13/2191205
26A Birch Tree Drive, Emsworth PO10 7RT

- 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 Brigitte Allen against the decision of Havant Borough Council.
- The application Ref APP/12/01118, dated 26 October 2012, was refused by notice dated 19 December 2012.
- The development proposed is a new one bedroom dwelling.

Decision

1. The appeal is allowed and planning permission is granted for a new one bedroom dwelling at 26A Birch Tree Drive, Emsworth, PO10 7RT in accordance with the terms of the application, Ref APP/12/01118 , dated 26 October 2012, subject to the following conditions:

   1) The development hereby permitted shall begin not later than three years from the date of this decision.

   2) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted drawings, numbers 004A, 005A, 006A & 007A.

   3) The development hereby permitted shall be constructed entirely of the materials details of which are shown on Drg No.006A.

   4) The landscaping and boundary treatment of the new development shall be carried out in accordance with Drg No.005A and any new boundary fences as shown on that plan shall be erected prior to first occupation of the new bungalow.

   5) No additional windows, doors or other openings shall be installed within the side and rear walls of the new dwelling without the written approval of the Local Planning Authority.

   6) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for: the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in

constructing the development; wheel washing facilities to prevent deposit of mud and spoil on the public highway; confirmation that demolition, dearance, excavation, and construction work shall only take place between the hours of 0800 and 1800 Mondays to Saturdays and not at all on Sundays and all recognised public holidays.

Main Issues

3. The effect of the development on the character and appearance of the area, on the living conditions of the occupiers of existing, proposed and adjoining houses, and the requirements for contributions towards transport infrastructure.

Reasons

Character and Appearance

4. The area is typical of post-war twentieth century suburban development in south Hampshire. Birch Tree Drive and the roads leading off it are mainly comprised of bungalows though there are some two-storey houses and flats. Many of the existing plots are a similar width to the proposed plot – such as those in Woodruffe Walk adjacent, and in Wallrock Walk and The Greenway on the other side of the road.

5. Although the proposed bungalow's rear garden would be only about 3 metres deep this is similar to the plots at The Greenway and it would also have additional private garden space to the side beyond the proposed parking spaces. The Council are also concerned the existing house will be left with insufficient amenity space. However this has a reasonable sized garden at the front, which is private as a result of a mature hedge. Both gardens, although smaller than the average in this area, would not be so small that they would look out of place or cause material harm to the area's character.

6. The Council are also concerned the frontage width of the new dwelling itself would be at variance with No.26A and other houses on this side of the road. Whilst this would be the case this area exhibits a number of different house styles, depths and widths. For instance the two-storey houses at Birch Tree Close adjacent are a similar depth and width to the proposal.

7. For these reasons I consider the proposed development would have little effect on the character and appearance of the area, and would therefore respect its local context in accordance with the Havant Borough Core Strategy [CS] Policy CS16.

Living Conditions

8. The gardens at both the existing and new dwellings would be large enough and sufficiently private to accommodate the normal functions of domestic gardens such as sitting out or hanging washing. The Council present no formal guidance or standards on minimum domestic garden size, and I am offered no basis for what constitutes 'substandard' in this context, albeit that they would be of a lesser size than others in the road.

9. The Council contends that the occupiers of No.3 Woodruffe Walk would be subject to noise nuisance from the concentration of domestic activities into what it considers to be too small a rear garden. This area is of course already a

garden. The new 1-bedroom bungalow is unlikely to be occupied by a large family and I do not consider that there would be a significant increase in domestic noise levels compared to the current existing situation.

Transport Contributions

10. The Council considers that financial contributions are required towards the costs of necessary improvements to transport. CS Policy CS21 requires on or off-site provision or contributions through planning obligations where new or improved infrastructure is essential as a result of development, and this includes transport infrastructure. This policy states that a Supplementary Planning Document [SPD] will be prepared to set out the mechanism to be used for taking such contributions together with details of the types and priorities of infrastructure provision. I presume this SPD has not yet been written or adopted because no details of it are provided by the Council.

11. Policy DM12 states that new developments will be required to mitigate their travel impact, including the environmental impacts of travel (such as noise and air pollution) and impacts on amenity, health and climate change by ensuring that adequate provision is made for integrated and improved transport infrastructure or appropriate mitigation measures, through S106 contributions in accordance with Hampshire County Council Transport Contributions Policy.

12. However, I have no details of this Contributions Policy. I understand from the Council's statement that it seeks to address congestion on the highway network by seeking contributions to provide and facilitate alternative means of transport, presumably to the private car. But because I do not know what exactly these contributions will be spent on, or whereabouts in the Borough they will be spent, or the means by which they have been calculated I am unable to determine whether they would be necessary to make the development acceptable, directly related to the development, and fairly and reasonably related in scale and kind.

13. The requirement for this contribution does not therefore meet the above tests in Regulation 122 of the Community Infrastructure Regulations 2010 or paragraph 204 of the Framework. So irrespective of the partially completed deed of undertaking submitted by the appellant the lack of a completed obligation does not weigh against the development.

Conditions

14. For the avoidance of doubt and in the interests of good planning I am imposing a condition requiring the development to be carried out in accordance with the submitted drawings, and these specify the provision of car parking within the curtilage of both new and existing dwellings. Drg No.006A clearly shows in sufficient detail the specific materials to be used on the new bungalow and so it is sufficient to specify it is built in accordance with these materials, rather than requiring the submission of specific samples, in order to secure a satisfactory appearance for the development. I agree with the Council a condition is required to prevent additional window openings (in the side and rear of the new dwelling) causing overlooking to surrounding property, and that concerns regarding construction hours, deliveries, storage of materials and mud on the highway should be covered by the submission of a Construction Method Statement given the quiet residential character of the area, in order to

safeguard the living conditions of adjacent occupiers both during and after construction of the development.

15. I do not consider details of hard or soft landscaping for open parts of the site or details of boundary treatment are necessary; given the areas of hard and soft landscaping are indicated on the layout plan the precise details of hard surface material and planting are a matter for the appellant on a single plot like this and details of boundary fences are clearly indicated on Drg No.005A.

Conclusion

16. For all the above reasons, and subject to these conditions, I conclude the appeal should be allowed.

Nick Fagan

INSPECTOR