

---

## Appeal Decisions

Site visit made on 1 April 2014

**by J J Evans BA (Hons) MA MRTPI**

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

**Decision date: 17 April 2014**

---

### **Appeal A Ref: APP/X1735/A/13/2208899**

#### **28 Lodge Road, Bedhampton, Havant, Hants PO9 3LL**

- 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 Derek Warwick Developments against the decision of Havant Borough Council.
  - The application Ref APP/13/00064, dated 22 January 2013, was refused by notice dated 22 May 2013.
  - The development proposed is the "demolition of the existing dwelling and erection of 2 No semi-detached 3 bed houses and 1 No 2 bed bungalow with associated parking and garages".
- 

### **Appeal B Ref: APP/X1735/A/14/2211227**

#### **28 Lodge Road, Bedhampton, Havant, Hants PO9 3LL**

- 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 Derek Warwick Developments against the decision of Havant Borough Council.
  - The application Ref APP/13/00841, dated 22 August 2013, was refused by notice dated 28 October 2013.
  - The development proposed is the demolition of the existing house and erection of a replacement 4 bed house with detached garage and a 2 bed bungalow.
- 

### **Decision**

1. **Appeal A:** The appeal is dismissed.
2. **Appeal B:** The appeal is allowed and planning permission is granted for the demolition of the existing house and erection of a replacement 4 bed house with detached garage and a 2 bed bungalow at 28 Lodge Road, Bedhampton, Havant, Hants PO9 3LL in accordance with the terms of the application, Ref APP/13/00841, dated 22 August 2013, and the plans submitted with it, subject to the conditions listed in the schedule attached to this decision.

### **Procedural Matters**

3. The Government's Planning Practice Guidance (the Guidance) was published on the 6 March 2014. I have taken into account the Guidance in reaching my decision.
4. As set out above, there are two appeals which differ in the provision of either a pair of semi-detached houses and associated parking and garaging to the front of the site, or a single detached house. Although I have considered each

proposal on its individual merits, to avoid duplication I have dealt with the two schemes together in this document, except where otherwise indicated.

5. Appeal A was refused by the Council for three reasons, the third being for the absence of a legal agreement to provide for transport infrastructure contributions. Since determining the planning application, the Council has adopted its Community Infrastructure Levy Charging Schedule (CIL) in February 2013. In their appeal statement, the Council have confirmed that they no longer want to pursue the third reason for refusal, as it has been superseded by the charging schedule. The appellant has acknowledged that there will be a CIL liability as a consequence of any planning permission. I have therefore determined the appeal on this basis.
6. Appeal B was submitted at the end of December 2013 and its reference number was originally APP/X1735/A/13/2211227. However, the registration of this appeal occurred in the new year, and consequently the reference was changed to APP/X1735/A/14/2211227. As all subsequent correspondence with the parties has used this reference, I shall continue to refer to the appeal in this way.
7. A request was made by a representative acting on behalf of the properties adjoining the appeal site (ie Numbers 26 and 27 Lodge Road) that the site inspection should include viewings from these properties. However, during my site visit, the representative requested that the appeal site be inspected from No 27 only, and not from No 26. This was duly undertaken.

## **Main Issues**

8. The main issues are the same for both appeals. They are the effect of the proposed development on the character and appearance of the surrounding area; and the effect on the living conditions of nearby residents and future occupiers of the proposed dwellings, with particular regard to noise and disturbance, outlook and privacy.

## **Reasons**

### *Character and appearance*

9. **Appeal A.** The appeal site lies within a residential area comprising a mix of dwellings of varying ages and styles. It forms one of several detached properties at the end of Lodge Road. There are a number of pairs of similarly styled semi-detached dwellings along the length of the cul-de-sac, as well as other detached houses and bungalows. In most cases the parking and garages for the dwellings are to the side of the properties.
10. The appeal property is a detached house that has a large rear garden. To the eastern boundary of the site, the properties along Brookside Road lie at a much lower level than the garden of No 28. Along the western boundary, there is a public footpath that links Lodge Road to Bedhampton Hill.
11. Appeal A proposes a pair of semi-detached dwellings to the front of the site, with a detached bungalow to the rear. The proposed houses would harmonise with the other semi-detached ones along the cul-de-sac. Although narrower in width than the others, they would reflect their design and detailing.

12. However, the appeal site tapers towards the road. The positioning of the proposed houses very close to the western boundary, their shared front garden area, and the driveway to the proposed bungalow, would result in a cramped appearance to the site, with a large proportion of it being used for access, parking or turning provision. As such it would unacceptably harm the character and appearance of the surrounding area.
13. Furthermore, whilst I appreciate that the proposed bin collection area would not be for permanent bin storage, it would be in addition to the proposed parking provision in front of the proposed houses, and would harmfully exaggerate the cramped and cluttered appearance of the site. This would be at odds with the spacious rhythm of most of the properties around the cul-de-sac, which have defined front gardens with parking and garages to the side.
14. In addition to the proposed pair of houses to the front of the site, a detached bungalow is proposed to their rear. The Council's Borough Design Guide Supplementary Planning Document (2011) (SPD), makes specific reference to backland development, requiring it, amongst other things, not to dominate the public frontage, be subservient to the frontage property, and have access provision that avoids disruption of the street scene.
15. The single storey height and modest proportions of the proposed bungalow would be subservient to the proposed dwellings to the front of the site, and the surrounding properties. Little of the proposed bungalow would be seen from the cul-de-sac. As such it would not harm the character and appearance of the surrounding area, but nevertheless this does not outweigh the harm I have found with respect to the proposed semi-detached houses.
16. I therefore find in the case of Appeal A, that the proposed development would unacceptably harm the character and appearance of the surrounding area. This would be contrary to Policy CS16 of the Havant Borough Core Strategy (2011) (CS), and the SPD, which amongst other things, requires development to be of a high standard that reflects the local context. This would be consistent with an objective of the National Planning Policy Framework (the Framework) and the Guidance, that seek good design which reflects local distinctiveness.
17. **Appeal B.** Instead of the proposed pair of semi-detached dwellings to the front of the site, a detached house has been proposed, again with a bungalow to its rear. The bungalow would be the same as that proposed in Appeal A.
18. The proposed house would reflect the character and appearance of the neighbouring detached house at the end of the cul-de-sac. A new garage would be provided in a similar position to the existing one on the site, and the front garden would be similar in size to those nearby. The proposed dwelling would have a smaller footprint than the existing house, and would have a centralised position on the plot, with driveways either side. This would maintain the spacious rhythmical separation of the properties around the cul-de-sac.
19. The proposed bungalow to the rear of the house would have the same design and positioning as proposed with Appeal A. It would be subservient to the proposed house, and would be mostly hidden when viewed from the cul-de-sac. The access and driveway to the bungalow would be partly shared by the proposed house, and this driveway would retain the spacious rhythmical

separation of the properties around the cul-de-sac. As such it would not harm the character and appearance of the area.

20. I therefore find that in the case of Appeal B, the proposed house and bungalow would not harm the character and appearance of the surrounding area. They would be in accordance with CS Policy CS16 and the SPD, and an objective of the Framework and the Guidance, that seek good design which reflects local distinctiveness.

### *Living Conditions*

21. **Appeal A.** The Council considered that the provision of a drive, parking and turning areas for both the proposed bungalow and the semi-detached dwellings would adversely affect the living conditions of both future occupiers of the proposed houses, and the occupiers of 26 Lodge Road and 12 Brookside Road.
22. The SPD requires a separation distance of a minimum of 3 metres from the edge of the access road to the edge of the nearest house. In this instance the proposed semi-detached house nearest to the access road would be closer than this requirement. However, the only window in the side elevation overlooking the driveway would serve a ground floor shower room, and I am satisfied that it would not unacceptably harm the living conditions of its future occupiers.
23. The front of the proposed houses would overlook a pavement, two parking spaces and the driveway to the proposed bungalow to the rear. To the side would be a garage and more parking spaces for the houses, beyond which would be a further parking and turning area for the proposed bungalow. I appreciate this relationship would not be unusual. However, in this instance a high proportion of the site would be utilised for access, parking or turning provision, and consequently would be used frequently by the three dwellings. This, combined with the close proximity of these areas to the ground floor windows of the proposed houses, would result in an unacceptable level of disturbance to the occupiers of these properties through use, noise, and vehicle headlights.
24. To the side of No 26 is a garage, and this would separate it from the proposed access road. No 12 lies at a lower level than the appeal site, overlooking it from its first floor and attic windows, albeit it an oblique angle. I am satisfied that the separation between the properties, and the provision of a 1.8m high acoustic fence along the eastern boundary, would be sufficient to protect the living conditions of both Nos 26 and 12.
25. Local residents have raised concern as to unacceptable levels of overlooking and loss of outlook. The proposed houses would occupy a similar position and footprint as the existing house on the site, and would have blank gable ends, apart from a small ground floor window serving a shower room to each. Although very close to the western boundary of the site, the separation between No 27 would be similar to the existing situation. The proposed houses would not unacceptably harm the living conditions of the occupiers of No 27 with regard to outlook and privacy.
26. Although at a lower level than the proposed bungalow, No 12 overlooks it at a first floor and attic level. However, the amount of separation between them, the modest proportions of the proposed bungalow, and the presence of a

- 1.8 metre high fence, would serve to provide an acceptable outlook and level of privacy for the occupiers of No 12.
27. I therefore find in the case of Appeal A that although the proposed development would not unacceptably harm the living conditions of the occupiers of neighbouring properties, it would be unacceptable with regards to noise and disturbance levels to the future occupiers of the proposed dwellings. This would be contrary to CS Policy CS16 and the SPD, which like an objective of the Framework and the Guidance, seek a good standard of amenity for all existing and future occupants of land and buildings.
28. **Appeal B.** The provision of two dwellings on the site instead of one would increase levels of activity, particularly with regard to vehicle movements. However, I am satisfied that the amount of separation between the proposed dwellings and the neighbouring properties, and the provision of a 1.8 metre high acoustic fence along the eastern boundary, would provide acceptable living conditions with regard to noise and disturbance to both the future occupiers of the proposed dwellings and those of the existing neighbouring properties.
29. Some of the occupiers of neighbouring properties have raised concern as to the loss of privacy. The proposed house would have no windows in its side elevations, and would occupy a similar footprint as the existing house. As such it would not increase the level of overlooking. I have already considered the impact of the proposed bungalow in the section above, and I am satisfied that it would not significantly harm the living conditions of the occupiers of neighbouring properties.
30. I therefore find in the case of Appeal B that the proposed development would not unacceptably harm the living conditions of the neighbouring properties, or that of the future occupiers of the proposed dwellings with particular regard to noise, disturbance, outlook and privacy. This would accord with CS Policy CS16 and the SPD, which like an objective of the Framework and the Guidance, seek a good standard of amenity for all existing and future occupants of land and buildings.

### **Other Matters for Both Appeals**

31. Local residents are concerned that in both cases the proposed development would exacerbate traffic congestion, parking problems, have an unsafe access, and cause potential conflict with users of the right of way. The level of proposed parking would be commensurate with the size of the proposed dwellings, and in the absence of any technical evidence to support the concerns of the residents, and noting the lack of objection from the highway authority, I am not persuaded that there would be an unacceptable impact on highway and footpath safety within the area.
32. I have also considered the alleged limitations of the capacity of the existing drainage systems, but have no substantive evidence before me as to the impact the additional dwelling would have.
33. Concern has been raised that trees have already been removed from the site, and that the resultant debris was left in neighbouring gardens. The appellant has produced an arboricultural report that details those trees and hedges to be retained, and I note that the Council's arboricultural officer raises no objection

to the scheme, subject to compliance with the requirements of this report. I have no evidence before me to disagree with this view, and am satisfied that those trees to be retained on the site can be adequately protected during construction works. The clearance of materials following any work would be a matter for the relevant land owners to address.

34. Local residents have raised concern that the location of the proposed bungalow could cause confusion as it does not have a street frontage, and this could encourage criminal activity. I note Hampshire Constabulary advises the provision of external lighting, gates, and locks to windows and doors. As such I am satisfied that measures could be undertaken that would minimise the opportunity for crime.
35. The appellant has provided examples of other schemes within the area, and local residents are concerned that it would set a precedent for similar developments. Each application and appeal is considered on its own individual merits with regard to the requirements of the development plan and all other material considerations. A generalised concern regarding precedent does not justify withholding permission in the case of Appeal B.
36. Although the appellant considers the structural problems of the existing house are beyond economic repair, local residents disagree. Notwithstanding this disagreement, whether or not the property could be repaired would be a matter for the relevant owner to address, and has no bearing on my decisions.
37. Concern has also been raised that the construction works would result in noise and disturbance. Although some disturbance would be inevitable, it would only be for a limited time, and in any event, would be subject to other legislative controls.
38. Finally, concerns regarding the Council's consideration of an alternative scheme for the site suggested by a local resident, relate to the Council's handling of the application, and have no bearing on my consideration of the planning merits of the case.

### **Conclusions and Conditions for Appeal B**

39. **Appeal A.** For the reasons given above and having considered all other matters raised, the appeal is dismissed.
40. **Appeal B.** For all the reasons given above, I conclude that the appeal should be allowed.
41. The conditions suggested by the Council for Appeal B have been considered against the requirements of paragraph 206 of the Framework. Where necessary and in the interests of clarity and precision they have been altered to better reflect these requirements and that in the Guidance. The standard time limit condition has been imposed, as has one requiring the development to be carried out in accordance with the approved plans, so as to avoid doubt and in the interests of proper planning.
42. To protect the character and appearance of the area conditions have been imposed requiring the submission of samples for the external surfaces of the dwellings, details of hard landscaping, and for the development of the site to be undertaken in accordance with the arboricultural report submitted by the appellant.

43. I have also imposed conditions requiring details of site and finished floor levels, boundary treatments and ones removing permitted development rights for creating additional openings and extensions to the dwellings, to ensure that the living conditions of neighbouring properties is not unacceptably compromised.
44. Finally I have also imposed conditions for safe parking and access to the site, and one for the dwellings to be constructed to Level 3 of the Code for Sustainable Homes, so as to comply with the requirements for providing sustainable homes.

*J J Evans*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans (except where directed otherwise by the conditions below): 212.07/09, 212.07/13, 1845/1A, 212.07/15, 212.07/12A, 212.07/11A, 212.07/14, 212.07/07B and 212.07/16.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with these approved details.
- 4) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials, and type of boundary treatments or any screen walls, or fences to be erected or hedges to be planted. Details of hedge planting shall include planting plans and written specifications; schedules of plants, noting species, plant sizes and proposed numbers / densities where appropriate; and details of any existing trees to be retained, including their spread and girth. Development shall be carried out in accordance with the approved details and retained as such thereafter. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the local planning authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 5) No development, including site clearance, shall take place until plans and details specifying the finished floor levels (above ordnance datum) of both the ground floors of the dwellings hereby approved and the surrounding ground levels in relation to the existing ground levels, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with these approved details.
- 6) Before any part of the development hereby permitted is commenced, a scheme of hard landscaping for the pathways, parking and turning areas shall be

submitted to and approved in writing by the local planning authority. The dwellings shall not be occupied until the approved scheme has been fully implemented in accordance with these approved details.

- 7) The development shall be carried out fully in accordance with the Arboricultural Report prepared by Partridge Associates First Revision dated 27 August 2013, unless otherwise agreed in writing by the local planning authority.
- 8) The dwellings hereby permitted shall not be occupied until plans and details showing the provision of three parking spaces within the curtilage of the house and 2 spaces provided within the curtilage of bungalow have been submitted to and approved in writing by the local planning authority. The works shall be undertaken in accordance with these approved details. The areas allocated for parking shall be kept clear of obstruction and shall not be used other than for parking of vehicles in connection with the development hereby permitted.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), there shall be no extensions to the dwellings hereby approved nor alterations to their roofs, including additional windows, including dormer windows, or other openings, without the prior express granting of planning permission from the local planning authority.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), there shall be no outbuildings erected within the curtilage of the dwellings hereby permitted without the prior express granting of planning permission from the local planning authority.
- 11) The dwellings hereby permitted shall not be occupied until a Post Certificate of Compliance with the Code for Sustainable Homes has been submitted to and approved in writing by the local planning authority. The Certificate shall demonstrate that the development has attained a minimum standard of Level 3 in accordance with the Code.