
Appeal Decision

Site visit made on 9 December 2013

by Nick Fagan BSc(Hons) DipTP MRTPI

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

Decision date: 15 January 2014

Appeal Ref: APP/X1735/A/13/2202188

Land to east of 8 Westbourne Avenue, Emsworth, Hampshire PO10 7QY

- 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 B Long against the decision of Havant Borough Council.
 - The application Ref APP/13/00228, dated 7 March 2013, was refused by notice dated 20 June 2013.
 - The development proposed is the erection of 1 No. one-bedroom bungalow with access from Westbourne Close.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 1 No. one-bedroom bungalow with access from Westbourne Close at land to east of 8 Westbourne Avenue, Emsworth, Hampshire PO10 7QY, Ref APP/13/00228, dated 7 March 2013, subject to the conditions at the end of this decision.

Procedural Matter

2. A third party objector disputes the size of the site described in the application. The size of the site is however clear from the scheme drawings and I was able to verify this during my site visit.

Main Issues

3. The main issues in this case are the effect of the proposal on the character and appearance of the area and the living conditions of neighbours.

Reasons

4. The appeal site lies in a residential area at the junction of Westbourne Avenue and Westbourne Close near to Emsworth's local facilities including a bus route, railway station and shops. The former road is characterised by mainly two-storey detached houses whilst the latter road contains mainly bungalows, apart from the two detached two-storey houses accessed from the track running off the Close at the site's southern boundary.
5. The site itself, as described by the Inspector in the recent appeal decision for a two storey house fronting towards Westbourne Avenue¹, is a vacant piece of open land within the urban area. The appeal was dismissed because the Inspector considered the two-storey house would have appeared as a cramped

¹ APP/X1735/A/11/2166421 dated 16 May 2012

form of development when viewed from the junction because it was very close to 8 Westbourne Avenue's boundary and too close to the footway in Westbourne Close.

6. The proposal is for a one-bedroom bungalow whose front elevation would face Westbourne Close that has been set back further than the 2012 appeal proposal from 8 Westbourne Avenue's boundary and from Westbourne Close. Although this site is not nearly as deep as the surrounding plots I consider these substantial changes in the design of the new dwelling are sufficient to ensure it would comfortably fit into the local street scene. Sufficient open garden area would be retained at the corner of the junction to maintain its open character and the footprint of the new house would not breach the regular building line along this part of Westbourne Avenue.
7. Concern has been raised both by the Council and neighbours that the dwelling would appear contrived because it would be much smaller in footprint than other houses in the area. Whilst this would clearly be so, I consider its size and design would be entirely appropriate for this site, which would otherwise continue as an unused piece of land potentially at odds with the adjacent well maintained residential garden plots.
8. The lounge, hall and bedroom windows of the bungalow would look towards 1 Westbourne Close but there would be ample separation between these windows and No.1's habitable room windows because of the road and the depth of No.1's front garden and there would be no harm to the living conditions of the occupiers of that property.
9. Havant Core Strategy [CS] Policy CS16 requires that development should use the characteristics of the locality to help inform the design of new development including heights, massing, building lines, plot widths and depths. Although this plot is smaller than those around it the proposed bungalow could be satisfactorily accommodated on it without detriment to the area's character or appearance, and without adversely affecting the living conditions of neighbours. The proposal would therefore comply with Policy CS16 and with Table 4.1 of the Council's *Borough Design Guide Supplementary Planning Document*.

Other Matters

10. CS Policy CS21 contains a requirement for contributions to be made towards infrastructure provision, including transport. 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 but the Council have provided no details of any such SPD and I presume it has not therefore been written or will be superseded by the Council's Community Infrastructure Levy.
11. CS Policy DM12 states that new developments will be required to mitigate their travel impact, including the environmental impacts of travel 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's Transport Contributions Policy. However, I have no details of this Contributions Policy. So although I have been provided with details of a signed unilateral planning obligation providing a contribution of £1,980 plus the

Council's monitoring fee I do not know exactly what this contribution would be spent on, or whereabouts in the Borough it would be spent, or the means by which it has been calculated. I am therefore unable to determine whether it would be necessary to make the development acceptable, directly related to it, or fairly and reasonably related in scale and kind and so it appears that such a contribution does not meet the tests in Regulation 122 of the Community Infrastructure Regulations. I have not therefore given this contribution any weight and it is not a reason for allowing this appeal.

12. Concern has been expressed about the potential conflict between vehicles exiting the tandem parking spaces at the rear of the site next to the access to Nos 9 and 10 Westbourne Close. However there is no objection to this parking arrangement from the Highway Authority and I agree with the previous Inspector, based on my own observations at the site concerning the alignment of the road and the speed of traffic in Westbourne Close, that such an access would neither be out of character with the area nor give rise to highway danger.
13. There is no objection from the Council to the effect of the proposed development on the Horse Chestnut tree at the south-western corner of the site and there are no reasons to disagree with the Council on this matter, despite the concerns of some of the neighbours. I am aware of concerns about a foul sewer running under this site but the Council have not raised any objection to this matter and the statutory undertaker has in any case separate powers to prevent building over certain sewers, meaning that any such sewer may have to be diverted at the expense of the appellant. I am also aware of concerns raised about the inadequacy of surface water drainage in Westbourne Close but I have no evidence of any such drainage problems. None of these matters alter my conclusion on the main issues.

Conclusion and Conditions

14. For the reasons set out above, and having regard to all other matters raised, I allow this appeal subject to the conditions below.
15. A condition listing the drawings is necessary in the interests of good planning and for the avoidance of doubt. A condition requiring the agreement of samples of external materials is necessary to ensure the bungalow's appearance harmonises with the appearance of neighbouring dwellings.
16. I agree a restriction on permitted development rights for extensions and garages is appropriate to ensure adequate open area and garden is retained and in order to prevent overlooking of the neighbours. I also agree that a condition requiring the dwelling to comply with Level 3 of the Code for Sustainable Homes is necessary in order to comply with Council policy to ensure sustainable construction.
17. A condition requiring parking space is required to ensure the development meets the Council's standards, but only one space is required for this – two spaces are unnecessary since any additional parking requirement can satisfactorily be accommodated on the adjacent Westbourne Avenue, which is very lightly parked.
18. A levels condition is necessary to ensure the height of the proposal is no higher than that of the nearby bungalows in Westbourne Close. And given the

constraints of the site, I agree a Construction Management Plan should be agreed with the Council prior to commencement of work, in order to ensure minimal disruption to neighbours during the construction process.

Nick Fagan

INSPECTOR

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 be carried out in accordance with the following approved plans: Sheets 1, 2, 3A, 4 & 10.
- 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. Development shall be carried out in accordance with the approved details.
- 4) 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), no extensions to the dwelling (including to the roof) or garages shall be erected on the site.
- 5) The dwelling shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.
- 6) The dwelling shall not be occupied until space has been laid out within the site for at least one car to be parked and such space retained for this purpose.
- 7) No development shall take place until the height of the building in relation to a nearby fixed Ordnance Datum shall have been submitted to and agreed by the local planning authority. Development shall be carried out in accordance with the approved details.
- 8) 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:
 - i) the parking of vehicles of site operatives and visitors
 - ii) loading and unloading of plant and materials
 - iii) storage of plant and materials used in constructing the development
 - iv) wheel washing facilities
 - v) measures to control the emission of dust and dirt during construction