

Appeal Decision

Site visit made on 21 August 2013

by John D Allan BA(Hons) BTP MRTPI

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

Decision date: 19 September 2013

Appeal Ref: APP/X1735/A/13/2194838

45 Hulbert Road, Havant, Hampshire PO9 3TA

- 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 S Jones against the decision of Havant Borough Council.
 - The application Ref APP/12/01230, dated 14 November 2012, was refused by notice dated 22 January 2013.
 - The development proposed is extension to outbuilding to form 1 No 2-bed bungalow and associated parking for 2 cars.
-

Decision

1. The appeal is allowed and planning permission is granted for extension to outbuilding to form 1 No 2-bed bungalow and associated parking for 2 cars at 45 Hulbert Road, Havant, Hampshire PO9 3TA in accordance with the terms of the application, Ref APP/12/01230, dated 14 November 2012, subject to the conditions set out in the attached schedule.

Procedural Matter

2. Since the date of the decision the Council has adopted its Community Infrastructure Levy (CIL) charging scheme, which I am told became effective on 31 July 2013. The effect of this is that a contribution towards transport infrastructure would be secured by means of the CIL and therefore there is no need for the appellant to address this matter by way of a planning obligation. As such, the Council has confirmed that the third reason for refusal given on the decision notice is no longer relevant. I have considered the appeal on this basis.

Main Issues

3. The main issues are the effect of the proposal on: - (i) the character and appearance of the area, and (ii) the living conditions at Nos 43 and 45 Hulbert Road with particular regard to noise and disturbance.

Reasons

Character and Appearance

4. The appeal property sits on a reasonably deep plot and I recognise that the properties extending north from it along Hulbert Road all have fairly extensive rear gardens. On the other hand, the gardens of those to the south are significantly shorter and with the majority noticeably curtailed by the fairly dominant form of the 2-storey dwellings to their rear at Matthews Close. As such, the site is positioned on the cusp of a transition from the more compact form of development to the south and the more spacious garden plots to the north.
5. The proposed dwelling, which would be created from the extension and conversion of an already existing, fairly large outbuilding to the rear of No 45, would approximately align with a new dwelling that is set deep into the immediately adjoining land at No 41 and which wraps around the rear garden of No 43. This property, which was granted permission in 2010 (LPA Ref 10/00802) was under construction at the time of my visit and in turn aligns approximately with the end, semi-detached property along Matthews Close. In addition to this, the 2-storey gable end of No 35 Matthews Close, which is part of a terraced row that lies obliquely across the terminal end of this residential cul-de-sac, has a strong visual presence when seen from the appeal site, and is in reasonable proximity to it with a corner part of that property's curtilage protruding into what would otherwise be a regular shape to the rear garden at No 45.
6. As a result of this surrounding context the area around the appeal site does not display the open or particularly spacious character that is more typical for those properties to the north. I therefore do not share the Council's view that the appeal property forms a particularly strong part of the linear pattern of development that extends in this direction. Instead, it is my view that the proposal would have an obvious visual relationship with the development that lies to its south side, with its tandem formation with No 45 directly reflecting that which was fairly recently permitted at No 41, regardless of the original configuration for that site.
7. The low rise form of the building, which would be no more prominent than the existing structure when seen from the gardens to the north, leads me to find overall that the proposed dwelling would appear neither incongruous nor out of keeping within its setting but would instead be seen as a distinguishable, but fairly in-obtrusive, marker between the different patterns of development that exist along, and to the rear, of this stretch of Hulbert Road. For these reasons I find that the proposal would appropriately respond to and respect its local context in accordance with Policy CS16 of the Havant Borough Core Strategy March 2011 and the National Planning Policy Framework 2012 (the Framework) insofar as they both relate to the quality of design.

Living Conditions

8. The proposal includes the demolition of the existing garage to the side of No 45 and the creation of 2 tandem parking spaces for the proposed dwelling in its place, along and adjoining the boundary with No 43. The Council is concerned that the use of these open spaces would result in unacceptable levels of noise nuisance that would be harmful to the residential amenities at both 43 and 45 Hulbert Road. This concern is shared by the neighbours at No 43 who are also concerned that the removal of the existing garage would open up the space to

the side of their property, leaving it exposed to views and loss of privacy from the side facing windows to No 45.

9. I have noted that No 43 appears to be positioned closer to the side boundary with No 45 than is depicted on the appeal plans, although there is a degree of separation that provides a pedestrian width access. There are two openings at ground floor along the flank elevation to No 43 and facing the appeal site. These provide light and ventilation to a shower room/toilet and kitchen respectively.
10. I accept that noise from use of the existing garage would be somewhat stifled by the building itself and that the existing parking arrangement to the front of No 45 would currently have little impact upon No 43. This situation would inevitably alter and the use of open parking spaces adjacent to the boundary would be likely to generate some noise that may be audible to the occupiers at No 43. However, such an arrangement is not atypical between adjoining residences where it can sometimes be the case that individual properties have garages to their rear with parking and vehicular access to one side. Furthermore the activity that would be associated with just 2 parking spaces would be fairly limited and, having regard also to the secondary nature of the living spaces within No 43 adjoining this boundary I am not persuaded that any intrusion would be significant or harmful to the residential environment within No 43, including any nuisance from fumes.
11. For these same reasons I am satisfied that there would be no harm to the living conditions of any future occupiers at No 45.
12. The existing garage does screen some of the outlook from a first floor side facing window to No 45 towards the side of No 43. However, the appellant has pointed out that this garage could be removed at any point, which is a factor to which I attribute some weight. Furthermore, the aspect from this window could be screened, to a degree, by a new boundary enclosure at this point and of a scale that would be typical of many between neighbouring properties. Having regard also to the fact that the principal living spaces within No 43 face forwards and to the rear, and are not reliant upon an outlook facing towards No 45, there would be no significant loss of privacy within the adjoining property.
13. Overall, I am satisfied that there would be no unacceptable harm to the amenity of any existing occupiers and therefore no conflict with Policy CS16 or the Framework in this regard.

Conclusion

14. For the reasons given, and having regard to all other matters raised, I conclude that there would be no harm to the character or appearance of the area, or to the living conditions at Nos 43 and 45 Hulbert Road. Accordingly, the appeal is allowed.

Conditions

15. The Council has suggested a list of conditions, which I have considered against the guidance in Circular 11/95 – *The Use of Conditions in Planning Permissions*. In some instances I have varied the wording of the suggested conditions to more closely reflect the guidance and model conditions set out in the Circular.

16. For the avoidance of doubt and in the interests of proper planning it is necessary to impose a condition requiring that the development is carried out in accordance with the approved plan. In order to protect the character of the area I shall impose a condition relating to the external materials of construction. For the same reason it is necessary to ensure that the trees that are shown to be retained on the site are protected during the construction works. Other matters relating to landscaping within this private curtilage would be a matter for future occupiers and not one that I consider needs to be controlled by condition. As the development proposes the extension of an existing building on a reasonably level site I do not consider that details of levels are necessary.
17. In the interest of highway safety it is necessary to ensure that the parking spaces are provided before the development is occupied. As the dwelling would be fairly close to some of the site's boundaries it is necessary to restrict permitted development rights insofar as they relate to enlargement and alterations to the dwelling, including to its roof, although given the plot's depth, in part, I do not consider this necessary for curtilage buildings or enclosures. To protect the living conditions at 47 Hulbert Road it is necessary to ensure that the flank window to this side is obscurely glazed. As the window would sit on the boundary line with No 47 it is also necessary for it to be fixed.

SCHEDULE OF 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 plan: 27936-PD-100.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 4) The development hereby permitted shall not be occupied until the parking spaces shown on Drg No 27936-PD-100 have been provided. All of the spaces shall thereafter be kept available for such purpose.
- 5) 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 or roof alterations, as permitted under Schedule 2, Part 1, Classes A, B and C of the Order shall be undertaken or constructed in relation to the dwelling hereby permitted.
- 6) The window in the north-west elevation of the dwelling hereby permitted, and facing towards 47 Hulbert Road, shall be obscurely glazed and fixed shut and it shall thereafter be maintained as such.
- 7) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the submitted Arboricultural Method Statement entitled 'Proposed new bungalow at 45 Hulbert Road, Bedhampton' before any equipment, machinery or materials are brought

on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority.

John D Allan

INSPECTOR