The Planning Inspectorate

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Miss Karen Wooden
Havant Borough Council
Business Development & Support Team
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Havant
Hampshire
PO9 2AX

Your Ref: APP/11/00278

Our Ref: APP/X1735/A/11/2166581/NWF

Date: 26 June 2012

Dear Miss Wooden

Town and Country Planning Act 1990
Appeal by Mr Peter Webb-Jones
Site at Land Rear Of 31 North Crescent, Hayling Island, PO11 9LR

I enclose a copy of our Inspector's decision on the above appeal.

If you have queries or complaints about the decision or the way we handled the appeal, you should submit them using our "Feedback" webpage at www.planningportal.gov.uk/planning/appeals/planninginspectorate/feedback. This page also contains information on our complaints procedures and the right of challenge to the High Court, the only method by which the decision can be reconsidered.

If you do not have internet access, or would prefer hard copies of our information on the right to challenge and our complaints procedure, please contact our Quality Assurance Unit on 0117 372 8252 or in writing to the address above.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

Yours sincerely

Erin Lindell

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HAVANT BOROUGH COUNCIL
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The Planning Inspectorate

Appeal Decision

Site visit made on 1 May 2012

by Mike Robins MSc BSc(Hons) MRTPI

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

Decision date: 26 June 2012

Appeal Ref: APP/X1735/A/11/2166581
Land to rear of 31 North Crescent, Hayling Island, Hampshire PO11 6LR

- 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 Bramley Property Development against the decision of Havant Borough Council.
- The application Ref APP/11/00278, dated 5 March 2011, was refused by notice dated 3 October 2011.
- The development proposed is a detached two bedroom bungalow with access, parking, cycle and bin storage.

Decision

1. The appeal is dismissed.

Main Issues

2. I consider that there are two main issues in this case, firstly the effect of the proposed new dwelling on the character and appearance of the area, and secondly whether it would entail the unacceptable loss of protected trees, or threaten their long term retention or integrity as a group.

Reasons

3. The appeal site is an area of land partitioned off from the garden of No 31 North Crescent. The plot, however, has no opening to North Crescent and would take access from Norman Road to the south. This road is surfaced as far as the proposed access but unsurfaced beyond, where it runs along the edge of a large public open space, Mengham Park. The plot has three substantial oak trees along its eastern boundary and a row of oaks on Council land to the south. Those to the east are covered by a Tree Preservation Order. No 1711, which encompasses a group of five common oak trees.

4. As a result, the positioning of the bungalow would be somewhat contrived, set at an angle near the centre of the plot to avoid any substantial overlap with the root protection areas of these trees. It would not respond to the arcing pattern of dwellings along North Crescent nor reflect the simple linear development along Silversands Gardens or Rails Lane.

5. I accept that there are a wide variety of dwellings in the local area and that there is no strong building line to properties on Rails Lane, nonetheless with Norman Road being used as an access to the public space, the site would be subject to considerable public overview and would stand as a somewhat isolated and incongruous addition to the area.

6. Of greater concern, however, are matters relating to the second main issue and the importance of the trees on the plot. They form a fine backdrop to both Rails Lane and North Crescent and provide an important feature of the entrance to and the general setting of the public open space. The access, hardstanding and parking areas proposed would be totally overshadowed by the crown spread of the oaks, as would the majority of the eastern side of the plot. With the position of the proposed dwelling, this would only leave a small open area to the northwest of the plot, which would be enclosed with a poor outlook and a very close relationship to the rear and side gardens of No 31, which has an extensive conservatory extension here.

7. I note that the appellant commissioned an arboricultural report and an initial foundation assessment report. These have considered the principle risk to the trees during the proposed construction period, and I am satisfied that with suitable conditional control and the use of protective fencing, root damage would be within acceptable limits. The hardstanding to the southern part of the plot is proposed to be of no-dig construction, which if delivered with care should address any direct physical damage to the trees.

8. However, with large, mature trees to the east and south, the plot would be heavily shaded, with much of its area under the spread of these trees and their dense crowns. The property is proposed to have its main front entrance facing to the southwest, very close to the shared boundary with the neighbouring property, while the main living areas would have aspects to the southeast and northeast. There would be significant shading of the interior the property and the main parts of the garden area would be darkened and dominated by the trees. It would be unlikely that grass or other planting would take in these areas, and the overhanging branches, with associated leaves and litter would be perceived as a nuisance.

9. In such circumstances I concur with the Council's arboricultural officer that there would be pressure to regularly prune or even fell the trees, and such applications could be difficult to resist once the house had been built.

10. Accordingly, even though I consider that the trees could be protected through construction, their relationship with the proposed development would be unsatisfactory and would not be conducive to their long term retention. Although the harm I identified to the character and appearance of the area associated with the position of the proposed bungalow on the plot would be limited due to the variety of development in the wider area, I ascribe significant additional weight in relation to the long term viability of the protected tree group and the trees associated with the Council land.

11. As such I do not consider that the proposal responds to or respects the local context and natural features, nor does it integrate with the existing local landscape. Furthermore I do not consider that it protects the trees which are a natural feature of importance in the area. Accordingly the scheme fails to comply with Policies CS16 and DM8 of the Havant Borough Core Strategy.

12. Turning to other matters, the Council sought a contribution towards highway infrastructure, noting pressure on transport associated with growth in the area. They referred to Policies CS21 and DM12 of the Core Strategy. Such contributions need to be assessed against the statutory tests of Regulation 122 of The Community Infrastructure Levy Regulations, 2010. In this case, however, in light of my conclusions on the main issues, it is not necessary to

apply these tests as the Regulation only applies where a relevant determination is made which results in planning permission being granted. However, I do note that the appellant was willing to provide the contribution and had offered a signed and dated undertaking, albeit the Council appeared to contend that it was deficient.+

13. While I accept that there is positive support in local and national policy for making more efficient use of land, support for the use of garden land has diminished since the redefinition of such land as greenfield in earlier planning policy, repeated in the definition set out in the National Planning Policy Framework. I also note the other development that has taken place on subdivided plots local to the site and referred to by the appellant, including that decided on appeal[1], however, these predate the current national and local policy, and do not appear to have included concerns in relation to protected trees. Notwithstanding this, each application or appeal must be considered on its own merits.

14. I have considered the policies in the National Planning Policy Framework, and have consulted the parties about it, but in light of the facts in this case the Framework does not alter my conclusions on this appeal. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Mike Robins

INSPECTOR

[1] APP/X1735/A/06/2014281