ADD/INFO

Appeal decision

Hearing held on 9 February 2000

by Edward Hitchings BSc ARICS MRTPI

an Inspector appointed by the Secretary of State for the Environment, Transport and the Regions

The Planning Inspectorate
Tollgate House,
Houlton Street
Bristol BS2 9DJ
0117 987 8927

27 APR 2000

Appeal : T/APP/X1735/A/99/1032290/P9

- 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 brought by Mr Jonathan C Thomson against Havant Borough Council.
- The site is located at Kingsey House, 52 Havant Road, Emsworth.
- The application (ref: 99/58782/4) dated 30 July 1999, was refused on 24 September 1999.
- The development proposed is the renovation of an existing building to provide a 3 car garage with studio above.

Decision: The appeal is dismissed.

Procedural Matters

1. The description of the development refers to the "renovation of an existing building". The appellant clarified at the hearing that although it was his intention to save parts of the main walls of the existing building if possible, it was more likely that the development would involve a completely new building. Having seen the poor structural condition of the current building, I consider that it is appropriate to assume that complete rebuilding would be required, and I shall determine the appeal on that basis.

2. The building that is the subject of this appeal, a former coach-house, is at the rear of the main house, which is now divided into four dwellings. There are two flats on the upper floors, a separate dwelling in a small rear wing (Coachmans Cottage), and the appellant's proposed residence occupying most of the ground and part of the first floor. At the hearing the appellant advised that the new building would be for the use of himself and his family, ancillary to their occupation of the main house. The ground floor would be used to house the family's vehicles, including a vintage car that he intended to acquire. His current intention was that he and his wife would use the first floor to start an Internet design business, for which some degree of separation from the main house and children would be desirable. Following discussion at the hearing, I concur with the views of the main parties that, for the purposes of this appeal, the level of activity involved in the start up of the appellant's business would be likely to be so low key as to be regarded as a use ancillary to the appellant's house. I shall determine the appeal on this basis.

3. During my site visit I viewed the site from the first floor rear windows and the rear garden of Southview (7 Kingsey Avenue).

The main issues

4. The main issues are;

   (a) the effect on the character and appearance of the adjacent residential area;

   (b) the effect on the living conditions of the occupiers of Southview by reason of loss of privacy, noise and disturbance, loss of daylight and sunlight, loss of outlook and excessive domination.

The Development Plan and other policies

5. The Development Plan includes the Hampshire County Structure Plan (SP) and the Havant Borough Local Plan (LP) adopted in June 1994. SP Policy E2 provides that development should be appropriate in design, scale, layout and density to its surroundings. Amongst the criteria of LP Policy GDD1 are that new developments should be sympathetic and appropriate in relation to adjacent buildings, features, spaces and views, and should not result in unreasonable loss or invasion of privacy, or impair the outlook from neighbouring properties. LP HO11 favours home based businesses where these can be accommodated without adversely affecting residents or the character of residential areas.

6. The Hampshire County Structure Plan Review Policy UB3 reiterates the approach of SP Policy E2.

7. National policy guidance as set out in PPG1[1] advises that good neighbourliness and fairness are among the yardsticks against which development proposals can be measured. "Overlooking" or loss of privacy experienced by a particular resident can be material. The guidance also emphasises the importance of good quality urban design that respects the quality and character of an area.

8. Advice on site layout for sunlight and daylight is contained in two Building Research Establishment Information Papers and in a related Building Research Establishment report[2].

Inspector's reasons

Character and Appearance

9. The character and appearance is of a spacious residential area with a variety of mainly substantial houses set in a matrix of trees, walls and hedges. No.52 Havant Road is set at the heart of this area and reinforces this character with its spacious garden and setting amongst mature trees. The existing coach-house is a very unobtrusive building both in siting and design. It is not visible from Havant Road, as it is hidden by the houses fronting that road and by the trees both in their gardens and along the drive to No.52. Although it might be possible to glimpse the proposed building, which would be about 2.1 metres taller, from Havant Road, it would be seen against a backdrop of the main house and the trees that surround it.

10. The other main public viewpoint is from the head of Kingsey Avenue. The upper part of the roof of the existing building is visible. The higher and bulkier proposed building would make a somewhat greater impact, but seen in the context of the main house, trees and other buildings I do not consider that there would be any significant impact on the scene as seen from Kingsey Avenue.

11. I have also considered the effect on the character and appearance of the area as seen from the houses and private gardens surrounding the site. The most immediate views are from Nos.48 & 50 Havant Road, as the new building would be close to the end of the rear gardens of these two properties. However, the distance from the rear of these houses is about 35 metres, and the new building would be seen against the backdrop of the main house.

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[1] Planning Policy Guidance note 1: General Policy and Principles: (February 1997): paragraphs 13-20, & 64.

[2] BRE Information Paper IP4/92 (March 1992): Site layout for sunlight and solar gain.
BRE Information Paper IP5/92 (March 1992): Site layout planning for daylight.
BRE Site layout planning for daylight and sunlight: A guide to good practice 1991.

12. I conclude that the proposal would not detract unduly from the character and appearance of the area and, in this respect, would not be contrary to the Development Plan, in particular to LP Policy GDD1 (a).

Living Conditions of Southview

13. "Southview" (7 Kingsey Avenue) is a 2-storey house immediately to the east of the appeal site. On the west side of the rear of the house is a short single storey wing. The orientation of the house is such that its front faces a few degrees to the west of south. I have considered the effect of the new building on the views from the two first floor bedroom windows on the rear of the property. These face north and would provide only oblique views of the new building that lies to the west. I have concluded that the new building would not have a significant impact on this outlook.

14. The secluded rear garden is much smaller than the average for the area, about 11 metres deep, but only about 7 metres behind the rear wing. Its position on the north side of the house substantially reduces the direct sunlight available except during the summer. Within the garden the sun during spring and autumn, particularly in the afternoon, can be best enjoyed within the area immediately behind the rear wing. This has the advantage of receiving afternoon and evening sunlight from the southwest and has been developed into a small patio. Taking into account that the front garden of the house lacks privacy, I consider that this small patio is especially important to the pleasant living conditions of Southview. It offers privacy, quiet, good daylight, adequate sunlight and a reasonably open aspect across the roof of the existing coach-house to the trees on the west side of No.52.

15. The existing coach-house has no windows on its east side, but the proposed building would have four windows. Three of these are small windows lighting a lobby and cloakroom on the ground floor. These are about 5½ metres from the boundary and would be quite adequately screened by the existing garden fence. A large window lights the landing of the stairs. When descending the first few steps to the landing, and possibly from within the studio, this window could provide a view over the Southview patio. However, the appellant has agreed that this could be obscure glazed with an inward opening top light for ventilation. In my view, this would prevent any significant loss of privacy for the occupiers of Southview.

16. At the hearing, concern was expressed that the use of the proposed building for business purposes could involve many more vehicle movements and people within the vicinity of the building, and this could result in undue noise and disturbance. As noted above, I am dealing with this appeal as a use ancillary to a dwelling. I consider that, if the level of business activity became a problem for the neighbours, a separate permission for a change of use to a business use would be required. At the level of activity envisaged in this proposal I would not expect noise and disturbance to be a problem.

17. The appellant's case demonstrated that the position of the proposed building would not infringe on the recommended minimum standard[3] to retain adequate daylight for Southview, and I concur with this conclusion.

18. It is not possible to assess with precision the effect of the new building on sunlight to the patio, because of the complicating effects of the existing building and the trees to the west. The eastern wall of the existing building is about 2 metres high and this would be increased to about 4 metres at the main eaves and about 5½ metres at the eaves of the hip end. The

[3] BRE Information Paper IP5/92 (March 1992): Site layout planning for daylight.

apex of the roof would increase from about 5.3 metres to about 7.4 metres. I also estimate that the east end of the roof ridge of the new building would be about 3 metres closer to the patio than at present. All these changes would increase the likely obstruction of sunlight from a low sun in the late afternoon.

19. The Local Planning Authority (LPA) introduced evidence of sunlight availability at the hearing, and suggested that the new building would cast a shadow in the autumn and spring on the patio for about 1¼ hours in the afternoon. I have noted that the LPA had assumed that Southview faces directly to the south, but from the plan attached as Appendix A of their evidence, it is seen to face slightly west of south. However, this would make little material difference to the calculation of overall sunlight available to Southview's garden. The LPA's assessment did not take account of the existing trees, and I agree that these would allow some light through in contrast to the deep shade of a building. I also consider that the position of the new building is such that the building would begin to cast a shadow in advance of the sunlight being affected by the existing trees. After allowing for the fact that the existing boundary fence would also obstruct some of the potential sunlight, I consider that the LPA's assessment is a reasonable indication of the likely effect on sunlight during spring and autumn. Taking into account the limited sun available to the patio during these seasons, I do regard this loss of potential sunlight to be a significant consideration.

20. In considering whether the new building would be unduly dominant, the main consideration is the impact on the outlook of a person in the Southview garden or on its patio. The existing coach-house is rather simple and unobtrusive, only seen from the patio as two low grey-slated roof slopes. As noted above, the new building would be higher and its greater bulk would be equally distributed across the site, whereas the existing building has only a low lean-to extension on its eastern side. The proposed building would, therefore, be a much more dominant building with a large wall area facing to the east, designed with its main window as a strong central feature. Southview already tends to dominate and shade its own small rear garden and its small patio. The proposed building would increase significantly the sense of being boxed in and dominated by buildings.

21. Although I consider this issue to be finely balanced, I conclude that the overall effect on the living conditions of the occupiers of Southview would not be acceptable. This is due to the combination of the reduction of afternoon spring and autumn sun in a situation where this is already limited, and the excessively dominating effect of the new building. Taken overall I find that the proposal is contrary to the Development Plan, in particular LP Policy GDD1 (k) & (l).

Other matters

22. It was argued for the appellant that account should be taken of LP Policy HO11 which favours home based businesses, even in those cases, such as this, where the business is to be established in accommodation being provided ancillary to a dwelling. However, the LPA considered that the policy would only apply where a specific business use was proposed. I agree with the appellant that the policy is designed to encourage small businesses, even those without the need for specific business premises. However, from the very limited information available at the hearing, I understood the appellant's proposed business idea to be at a very preliminary stage. In these circumstances I do not consider that I should afford it significant weight in making my decision.

23. The appellant's case included the assertion that the proposal must be regarded as complying with SP Policy E2, because the LPA had not cited any breach of this policy. I agree with

the LPA that LP Policy GDD1 fully reflects SP Policy E2 and that there was, therefore, no requirement on them to make specific reference to Policy E2 in their decision.

Conclusions

24. Although I have concluded that the proposal does not adversely affect the character and appearance of the surrounding area, I consider that this consideration is outweighed by the unduly detrimental impact on the living conditions of the occupiers of Southview. I have taken into account all the other matters raised in writing and at the hearing, but none outweighs the considerations that have led to my conclusions. For the reasons given above, I consider that on balance the appeal should not succeed, and I shall exercise the powers transferred to me accordingly.

Edward Fitzsimons.

APPEARANCES

FOR THE APPELLANT:

Robert Tutton BSc MRTPI	Town Planning Consultant
Jonathan C Thomson	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Simon Finch BSc(Hons) Dip TP MRTPI	Senior Planner

INTERESTED PERSON:

Mr A H Davies	"Southview", 7 Kingsey Avenue, Emsworth

DOCUMENTS

Document	1	List of persons present at the hearing
Document	2	Letter of notification of the appeal and those notified
Document	3	Bundle of letters from Mr A H & Mrs B Davies, Southview, Kingsey Avenue
Document	4	Appendices A and B attached to Havant Borough Council Written Statement
Document	5	Extracts from Site Planning for Daylight and Sunlight BRE 1991 put in by Havant Borough Council.

PLANS

Plan A	Sheet of planning applications plans.
Plan B	Crosssection to indicate daylight retention for Southview put in by Robert Tutton

PHOTOGRAPHS

Photograph A	Set of three photographs put in by Havant Borough Council.