



Appeal Decision

Site visit made on 3 April 2023

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 May 2023

Appeal Ref: APP/C1760/W/22/3308899

Erlcombe, Butts Green, Lockerley, Hampshire SO51 0JG

- 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 M Blackledge against the decision of Test Valley Borough Council.
 - The application Ref 22/01682/FULLS, dated 27 June 2022, was refused by notice dated 23 September 2022.
 - The development proposed is erection of a 4 bedroom dwelling with sewage treatment plant and associated soft and hard landscaping.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr M Blackledge against Test Valley Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are the effect of the proposal on:
 - the living conditions of the occupants of Bowmans, with regards to outlook; and
 - the Solent and New Forest protected habitats.

Reasons

Living Conditions

4. The appeal site is the end section of the rear garden of a detached dwelling which fronts the Village Green and has an edge of settlement location. The outlook from the rear of this and from the neighbouring dwellings is of relatively undeveloped land that includes rear gardens, the nearby school playing field and adjacent tree and hedge lined fields.
5. The proposed development would be a relatively substantial two storey dwelling. The proposed dwelling would be located to the rear of dwellings located on Lockerley Road. The two-storey section of the proposed dwelling would be set near the rear boundary of the dwelling known as Bowmans.
6. While Bowmans has some garden space to the front, that space fronts the main road, includes a driveway, and is relatively open. Therefore, the garden to the rear of Bowmans provides the principal outside space where the occupants of

that dwelling can sit and relax. Although this rear garden space roughly matches the width of the detached dwelling at Bowmans', this space is relatively shallow in depth. As such, the existing largely undeveloped space above the rear boundary fence of this property is significant in so much as it provides a sense of spaciousness for the occupants of Bowmans when they are in their rear garden space.

7. Even though the proposed dwelling would be set away from Bowmans' rear boundary, the proposed dwelling would project above and dominate the space above the fence. The proposed dwelling would align with a significant portion of the rear garden of Bowmans, and given the short depth of this space, would appear as a dominating and overbearing feature to the occupants of Bowmans when using their rear garden. In turn this would make their garden space considerably less pleasant to use.
8. Furthermore, the dwelling at Bowmans is slightly angled such that the outlook from the three rear first floor windows is out over the appeal site, and the relatively undeveloped and verdant space beyond. All three windows serve habitable rooms.
9. With the proposed hipped roof, the side roof plane of the proposed dwelling would slope away from the shared boundary with Bowmans. However, this would only be a gentle slope. Moreover, while noting that the external cladding would be different from previous proposals at the appeal site, the development would still result in a two storey, largely plain brick and tile clad wall near to this relatively undeveloped shared boundary. Consequently, even with the degree of separation proposed, the proposed built form would dominate the outlook from within the house and would harmfully erode the existing sense of space that the occupants of Bowmans currently experience at the rear of their property.
10. The ridge height of the proposed dwelling would be lower than that of a previous proposal refused permission by the Council¹. However, the reduction in height is modest, and would not prevent the looming presence of this development when viewed from the rear garden or the first floor rear windows of Bowmans. Nor would the proposed landscaping, that could be secured by condition, mitigate the harmful dominance of the upper floor of the proposed dwelling. Consequently, even with the revisions presented in this case, I find that the proposal before me would harmfully impact the living conditions of the occupants of Bowmans as a result of an overbearing impact on outlook.
11. The appellant asserts that the first reason for refusing the development, as stated on the Council's decision notice, is inaccurate, imprecise and did not make reference to matters subsequently raised in the Council's appeal statement. However, the decision notice indicates the property and harm that the Council considers is at issue. This reason for refusal is precise in this regard, and the Council also substantiated this reason with reference to relevant development plan policies.
12. The Council has acknowledged its error in referencing a gable end. While the decision notice does not specifically reference the effect of the proposal on the living conditions within the dwelling, it is evident from the Council's submission that its concerns relate to both garden and dwelling. In any event, even if I

¹ Ref: 21/02071/FULLS

were to set aside the impact on living conditions within the dwelling, I have found the proposal would diminish the quality of Bowmans' rear garden, and that would result in unacceptable harm to the living conditions of the occupants of that dwelling. Although the Council makes reference to design this is in regard to the proposal's impact on living conditions, specifically outlook. Therefore, these matters have not altered my findings.

13. The appellant has referred to guidance for separation distances between dwellings, but this is guidance adopted by other local authorities and therefore not relevant in this case. In any event, these are advisory distances that seek to protect living conditions, and I have found that the proposal would be harmful in this respect.
14. For the reasons given above, I find that the proposal would have a harmful effect on the living conditions of the occupants of Bowmans, with regards outlook. The proposal would therefore conflict with Policy LHW4 of the Test Valley Borough Revised Local Plan (Local Plan). This Policy states development will be permitted provided that, amongst other matters, it provides for the privacy and amenity of its occupants and those of neighbouring properties.

Protected Habitats

15. The appeal property is within the zone of influence of protected habitats that include the Solent and New Forest European designated sites. The Council originally concluded that the proposal would have a likely significant adverse impact on these habitats, and without certainty of suitable mitigation, the development would be contrary to Policies COM2 and E5 of the Local Plan and the Conservation of Habitats and Species Regulations 2017.
16. The Council, in its appeal statement, has withdrawn this objection, subject to securing a signed legal agreement and direct payment which the Council considers provides the mitigation measures necessary in this case. However, as I am dismissing on other grounds it is not necessary to consider this matter further.

Other Matters

17. There would be a small social benefit in providing an extra housing unit and short-term economic advantages would also arise from the construction of a new dwelling and contributions to the Community Infrastructure Levy. Some further modest benefits would result from the additional support to the vitality of the local community from future occupiers of the dwelling. I also note the potential for biodiversity enhancement at the site. However, the proposal would result in harm to the living conditions of neighbouring occupants and therefore the social objective of sustainable development would not be achieved.
18. The Council has raised no concerns about the impact of the development on light, privacy, character of the area, highways, trees and ecology, subject to conditions. However, these are neutral matters that cannot outweigh my above findings.
19. The appellant referred to a previous appeal relating to a proposal for two dwellings at the appeal site.² The Inspector in that case noted that the Council had no objection in respect of outlook and found no reason to conclude

² Ref: APP/C1760/W/21/3274523

differently on that matter. However, the proposed dwellings in that case were one and a half storey, dormer style houses and therefore materially different from, and not directly comparable to the two-storey dwelling proposed in this case. That previous decision is therefore a matter of limited weight.

20. The Officer's report recommended planning permission for this proposal subject to conditions. However, the Council is not bound by this recommendation. Consequently, this matter has not altered my findings.

Conclusion

21. There appears to be no in principle policy objection to the erection of a dwelling in this location. However, given the harm to living conditions that I have identified and conflict with Policy LWH4 of the Local Plan, the development is contrary to the development plan when taken as a whole. In this case, there are no material considerations of sufficient weight to indicate that the appeal should be determined other than in accordance with the development plan. Therefore, the appeal should be dismissed.

A J Sutton

INSPECTOR