The Planning Inspectorate

Appeal Decision

Site visit made on 19 November 2014

by K D Barton BSc(Hons) Dip Arch Dip Arb RIBA FCIArb

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

Decision date: 1 December 2014

Appeal Ref: APP/W1715/A/14/2223636
Clarke Mews, 30 High Street, Botley, Southampton SO30 2EA

- 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 Graham Clarke against the decision of Eastleigh Borough Council.
- The application Ref C/14/74198, dated 25 February, was refused by notice dated 28 April 2014.
- The development proposed is the construction of a flat at first floor level.

Decision

1. The appeal is dismissed.

Effect on the Character or Appearance of the Botley Conservation Area

2. The appeal site lies within the shopping area of Botley and the Botley Conservation Area, which is characterised by predominantly two storey buildings, some of which form terraces. Examples of large scale rear extensions are visible on an aerial photograph but are not as visible on the ground. Indeed, the variety of designs ensures that individual buildings are readily identifiable and that the apparent scale is small, particularly on the north side of High Street.

3. The appeal property has the appearance of a small cottage, despite extensions at first floor and to the rear. The rear extension makes little contribution to the character and appearance of its surroundings, as it is not readily seen from most vantage points, but in terms of design and materials the building as a whole makes a significant contribution to the character and appearance of the Conservation Area. 32 High Street, which has recently been extended to form a first floor flat, lies to the west separated from No 30 by a vehicular access serving No 30a. Beyond No 32 is the Grade II listed No 34. To the rear of the appeal site is a detached bungalow No 30a whilst to the east of the site is No 28, which is in commercial use. Beyond No 28 is the access to Warner Mews, a residential development set behind the buildings fronting the High Street.

4. The proposal would add a further floor above the existing flat roofed rear extension. It would have a pitched roof with half hipped gables at the rear and hipped dormer windows on the side elevations. The elevations would be partly brickwork to match the existing and partly tile hung.

5. A similar proposal was refused by the council in 2013 (Ref C/13/72836). The appellant's Design and Access Statement indicates that the main differences between that scheme and the current proposal are the removal of a balcony and the incorporation of a 'Juliette' balcony, to allow daylight without affecting privacy, a reduction in floor area with the western flank wall up to 2.5 metres further from the boundary, and a staggered rear elevation.

6. The proposal would make efficient use of the appeal site. However, whilst the reduction in floor area, and the use of hips and half hips, has slightly reduced the massing of the proposed development compared to the 2013 scheme, the proposed first floor extension would still have a considerable mass and bulk. Moreover, the dormer windows would be significantly higher than the existing first floor windows detracting from the small cottage appearance of the frontage building and its surroundings. This would be glimpsed in views through the gaps between the frontage buildings, particularly when approaching from the west, and would be particularly prominent as perceived by residents leaving Warner Mews.

7. Notwithstanding the use of traditional materials, the increased bulk would be detrimental to the character and appearance of the surrounding Conservation Area contrary to the aims of saved Policies 59.BE i) and 169.LB i) of the Local Plan Review 2001-2011 (LPR) and Policies DM1 i)b) and iii) and DM10 i) of the emerging Pre Submission Eastleigh Borough Local Plan 2011-2029 (PSLP).

Effect on the Living Conditions of the Occupiers of 30a and 32 High Street, and the Occupiers of the Proposed Extension, in terms of Privacy and Overlooking

8. The proposed dormer in the west elevation, serving a living room, would face directly toward a bedroom window in the first floor flat at No 32 that would only be around 6.9 metres away. This would be unacceptable in terms of privacy that ought reasonably to be expected. Although there is no residential accommodation at first floor level in No 28, on the opposite side of the proposed extension, the proposed kitchen window would be close to the existing first floor office windows at No 28 which would have a detrimental impact on the privacy of the future occupiers of the proposed extension. The proposal would, therefore, be contrary to the objectives of saved LPR Policy 59.BE vii) and PSLP Policy DM1 i)a).

9. The proposed bedroom window in the first floor west elevation would face towards the rear amenity area at No 32. However, it would be approximately 12.1 metres from the side boundary of the amenity area and the degree of overlooking would not be unusual for a tight knit urban area. The 'Juliette' balcony in the rear elevation would be some 6.1 metres from the boundary with No 30a. However, the vegetation and small trees in the garden of No 30a, much of which is evergreen, would prevent any unacceptable overlooking of the dwelling and its garden.

Parking Provision

10. The proposal makes no provision for o*n-site parking in accordance with the Council's* 'Residential Parking Standard' Supplementary Planning Document, adopted in 2009. The application was accompanied by a *Parking Assessment* that used the same methodology as an Assessment undertaken for the change of use and extension of No 32. This provided residential accommodation which has a larger footprint than is currently proposed at no 30 without providing any additional on-site car parking.

11. The Assessment , which is for a 2 bedroom apartment rather than the one bedroom flat now proposed, notes that the site is classified as having 'medium accessibility' but states that it is not possible to conclude that occupiers would not use a car as a regular mode of transport and that off-site parking therefore requires consideration. There are a total of 21 parking spaces on the High Street that are subject to a 2 hour restriction and a further 3 spaces are available within a loading bay lay-by that can be used outside of 09:00 to 18:00 hours Monday to Saturday. There are two other public car parks within 2 minutes walk. Mortimer Road has 63 spaces and no parking restrictions, whilst The Dolphin has 52 spaces

with a 4 hour maximum time restriction between 08:00-18:00 Monday to Saturday.

12. The Council's concern about undermining the availability of parking for shoppers and local businesses is understandable. However, parking counts were carried out and both day time and night time surveys identified at least 58 available spaces. In these circumstances, the loss of a space as a result of the proposed development would not have any significant impact. Indeed, saved LPR Policy 105.T indicates there might be situations where the Parking Standards are not met but that development could be permitted, subject to a financial contribution.

13. There would eventually come a point where the non provision of on-site parking would have an effect on the vitality and viability of the shopping centre, particularly as the recession ends, but the appeal proposal would not have such an effect. The lack of an on-site parking space would not, therefore, undermine the aims of saved LPR Policies 104.T, 105.T and 133.TC.

Sustainability

14. Reference has been made to the '*Environmentally Sustainable Development*' Supplementary Planning Document, adopted in 2009, but this states on page 5 that 'residential' refers to all new houses and flats but not to extensions and conversions. It would not, therefore, be relevant in this case where the proposal is an extension. PSLP Policy DM2 requires all residential development to achieve Level 4 of the Code for Sustainable Homes. However, the weight to be given to the emerging Plan is restricted due to the relatively early stage it has reached. In any event, paragraph 5.14 of the explanatory text refers to residential conversions and major extensions but notes that the definition of major extensions will be set out in a future update of the '*Environmentally Sustainable Development*' Supplementary Planning Document. Notwithstanding this the emerging plan indicates the 'direction of travel'. Saved LPR Policy 34.ES indicates that all proposals should make an appropriate contribution towards reducing levels of carbon dioxide and other greenhouse gases.

15. The appeal site is mostly covered by development, which limits how surface water run-off could be dealt with and leaves few opportunities for ecological enhancements. Notwithstanding this, a Code for Sustainable Homes Pre-Assessment Prediction indicates that the proposal would achieve Code Level 3. Whilst this would fall short of the Level 4 sought by the emerging Policy it would make an appropriate contribution for a small residential extension to reducing carbon dioxide and greenhouse gas emissions and comply with the aims of saved LPR Policy 34.ES.

Infrastructure Provision

16. The Council provided justification for a number of contributions to demonstrate that the sums requested were necessary to make the proposal acceptable in planning terms, how they would be directly related to the proposed development, and why they were fairly and reasonably related in scale and kind to the development. The contributions, would, therefore meet the tests in Community Infrastructure Levy Regulation 122.

17. A Unilateral Undertaking, to make provision for the contributions, was submitted dated 16 October 2014 but was unacceptable to the Council for a number of reasons set out in its Supplementary Statement. A copy of an amended Undertaking dated 5 November 2014 was subsequently submitted but was also unacceptable to the Council due, amongst other matters, to a number of errors. In addition, no Land Registry Title documents have been submitted and the parties

cannot therefore be confirmed. There is also a registered leasehold interest in the site that has not been scrutinised and the Mortgagee clause requirement is unconfirmed due to the lack of Land Registry Title documents.

18. Whilst these matters ought to be capable of easy rectification, the lack of an acceptable Unilateral Undertaking means that there is no mechanism to ensure that the necessary provision for infrastructure would be made. The proposal would, therefore, be contrary to the objectives of saved LPR Policies 101.T ii), 147.OS i), and 191.IN and PSLP Policies DM23, DM32, DM35, and DM37.

Other Matters

19. There are a number of listed buildings close to the appeal site. However, the proposal would not readily be seen in conjunction with any listed building and so would not detrimentally affect any significant views of the listed buildings.

20. A Supplementary Planning Document '*Quality Spaces*' indicates that flats should have an amenity area of 25m². Whilst the proposal would not include any private residential amenity space, the guidance allows for the requirement to be waived in some circumstances. In this case, there is a recreation ground roughly 280 metres to the west and the site is within a district centre with access to reasonably good local facilities. The lack of private amenity space would not, in these circumstances, be unacceptable.

21. The Officer's report to Committee notes that the application form indicates zero cycle parking despite the requirement, in the Eastleigh Borough Council *Parking Standards*, for cycle parking. However, cycle parking is indicated on the plans in a location where there is no existing cycle parking. The provision of cycle parking could be ensured by condition and would not warrant dismissing the appeal.

22. Reference has been made to the need for additional residential accommodation. The Council notes that since 2001 housing completions have exceeded the annual requirement in all but 4 years, and that between 2001 and 2013 the average number of completions has been 57 per annum above the comparable requirement. On this basis the use of a 5% buffer can be justified and the Council can demonstrate a 5 year housing land supply. In such circumstances planning permission would only be justified for proposals in accordance with the development plan.

Conclusion

23. Notwithstanding the conclusions on parking, sustainability, and other matters, these are outweighed by the detrimental impacts that the proposal would have on the character and appearance of the surrounding Conservation Area, on the living conditions of the occupiers of No 32 and the proposed development in terms of privacy, and on infrastructure provision.

K D Barton

INSPECTOR