The Planning Inspectorate

Appeal Decision

Site visit made on 2 May 2012

by Sue Glover BA(Hons) MCD MRTPI

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

Decision date: 26 June 2012

Appeal Ref: APP/W1715/A/12/2169473
1 Charmwen Crescent, West End, Southampton SO30 3AQ

- 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 HGS Developments against the decision of Eastleigh Borough Council.
- The application Ref F/11/69366, dated 7 July 2011, was refused by notice dated 6 September 2011.
- The development proposed is a roof conversion and alteration to the dwelling, including the creation of a new dwelling.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect on the character and appearance of the area, and whether contributions are necessary towards community infrastructure, public open space and sustainable transport.

Reasons

Character and appearance

3. The appeal site lies in a prominent corner position. It marks a transition in character and appearance between the larger scale 2-storey development in Sharon Road and Barnsland, and the modest bungalows in Charmwen Crescent and further along Sharon Road. Due to the rising land, most bungalows in Charmwen Crescent are at a higher level than the bungalow at the appeal site.

4. The proposed building would appear more prominent than the existing building above the boundary hedge and it would be as close to no. 3 Charmwen Crescent as the existing dwelling. It would also be closer to Sharon Road than the bungalows further along the street. However, despite the proposed increase in height and mass and the reduction in garden size, it would sit comfortably within the transition zone between buildings of different sizes at the lower end of the street. It would not appear as an anomaly between lower buildings in mid row as is the case with other examples in the street.

5. Given its unique position at the junction and the above average sized garden, it would not appear unduly dominating or cramped, or constitute an over-development of the site in this location. I therefore find no conflict with the

objectives set out in The Character Area Appraisal Supplementary Planning Document (SPD1).

6. I have some sympathy with the Council's reservations about the high wall and fence dividing the 2 dwellings at the front. Although partially screened by the boundary hedge, the wall and fence would be clearly seen from the driveway entrance. Given its overall height of some 1.9m, it would detract from the spacious appearance at the frontage.

7. I mindful that the height of the internal boundary is intended to provide some privacy for prospective residents. However, much of the external amenity space at the front and rear would be screened from public view by the high front hedge. Notwithstanding the details indicated on the submitted drawings, a condition could be imposed to require details of boundary treatment and landscaping to secure a satisfactory appearance and adequate privacy.

8. Taking all these matters into account, I find no material harm to the character and appearance of the area. In this respect there is no conflict with the objectives of Saved Policy 59.BE of the Eastleigh Borough Local Plan Review (LP) and SPD1.

Contributions

9. The Council is seeking contributions towards community infrastructure, off-site public open space and essential sustainable transport works. The relevant development plan policies are LP Policies 191.IN I, 147.OS and 101.T. The Planning Obligations Supplementary Planning Document (SPD2) provides additional guidance on contributions. I have considered the Council's requirement for contributions in the light of the statutory tests contained in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010.

10. The Council says that there is no surplus of existing community facilities within the local area. It has identified improvements at the Townhill Farm community centre, which is the only community focal point serving the western side of the Parish. The improvements would be delivered at or close to the time of the development's construction. A formula is provided for calculating the contribution based on the number of bedrooms. In these circumstances I consider that an obligation would be directly related to the development, necessary to make the development acceptable in planning terms, and fairly and reasonably related to the development proposed. It therefore passes the statutory tests set out in CIL Regulation 122. I therefore find that an obligation to provide a contribution towards community infrastructure is necessary.

11. In respect of open space, contributions are sought to enhance the capacity of all playing field provision and open space improvements, irrespective of location. A contribution is also required towards improving accessibility at Hatch Farm Grange public open space, which is accessed via a public footpath north of the site. A formula is provided for calculating the contribution based on the number of bedrooms. In these circumstances I consider that an obligation would be directly related to the development, necessary to make the development acceptable in planning terms, and fairly and reasonably related to the development proposed. It therefore passes the statutory tests set out in CIL Regulation 122.

12. In respect of transport, the Council expects a contribution to minimise the need to travel by private car and to improve accessibility and sustainable transport modes. It indicates that without a cycle link from Swathling Road to The Drive and Sharon Road the proposal would not be sufficiently sustainable in transport terms and therefore unacceptable. However, the Council also indicates that the site is within a medium accessibility area and on a bus route, with relatively good pedestrian and cycle links. The justification that the identified cycle link is directly related and necessary to the development is therefore unsubstantiated. In relation to essential sustainable transport works, the statutory tests set out in CIL Regulation 122 are not met.

13. The Council also says that it requires a contribution towards the costs of administration of obligations and monitoring. Whilst it is accepted practice that a developer should contribute towards the costs of negotiating any obligation, payment towards the cost of monitoring is not justified as this is part of the general statutory duty of planning control.

14. I find that an obligation to provide contributions towards community infrastructure and off-site public open space is necessary. The appellant is willing to pay an appropriate amount, but has been unable to secure an agreement or an undertaking. The appeal proposal therefore fails to comply with LP Policies 191.IN I and 147.OS and SPD2.

Other matters and conclusions

15. As indicated in the National Planning Policy Framework (NPPF) private residential gardens are excluded from the definition of previously developed land. The NPPF also indicates that it is for local authorities to consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area. In this case, I have found no harm to the character and appearance of the area.

16. Notwithstanding my findings regarding character and appearance, the harm that I have identified from the absence of contributions towards community infrastructure and off-site public open space is significant and overriding. I have considered all other matters including whether there is a right of way to a track at the rear and the position of sewers. I have also considered all the policies in the NPPF in the light of the submissions for this appeal, but the NPPF does not alter my conclusions.

Sue Glover

INSPECTOR