The Planning Inspectorate

Appeal Decision

Site visit made on 26 March 2013

by Elizabeth Lawrence BTP MRTPI

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

Decision date: 17 April 2013

Appeal Ref: APP/W1715/A/12/2188242
239 Winchester Road, Chandler's Ford, Eastleigh, Hampshire, SO53 2DX

- 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 Ian Permain, Perbury (Developments) Ltd against the decision of Eastleigh Borough Council.
- The application Ref F/12/70213, dated 16 December 2011, was refused by notice dated 28 may 2012.
- The development proposed is erection of one number two storey four bedroom house with connecting garage, new driveway and associated landscaping. New driveway to be shared with existing No.239 Winchester Road – Existing driveway to be closed off.

Preliminary matters

1. The Council has confirmed that the Appellant's Unilateral Undertaking addresses the infrastructure concerns set out in their decision notice. Accordingly the Council has withdrawn their third reason for refusal.

Decision

2. The appeal is dismissed.

Main Issues

3. The first main issue is whether the scheme would provide satisfactory living conditions for the occupiers of the proposed dwelling, with particular regard to daylight, sunlight and privacy. The second main issue is the effect of the scheme on the occupiers of 239 Winchester Road (No.239), with particular regard to noise and disturbance.

Reasons

Living conditions – proposed dwelling

4. The area in which the Appeal site is located is characterised by detached family dwellings occupying large, mature landscaped gardens. These dwellings both front onto the road and occupy "backland" positions. The Appeal site is smaller than other "backland" plots in the immediate locality and there are a significant number of trees around and within the boundaries of the site. At the same time the ground level rises gently to the north and west across the site.

5. The proposed dwelling would be located in the southern half of the site and would be orientated to the south. The outlook from the living room window/doors would be dominated by a parking space and boundary trees and shrubs to the front and the canopy of a mature Oak tree to the rear. The kitchen/diner would have a similar outlook. As a result these rooms would experience a strong sense of enclosure and would be overshadowed for prolonged periods, particularly during the summer months.

6. The front and rear gardens would experience a significant degree of overshadowing caused by the trees around and within the garden area. The situation would be exacerbated in the rear garden by the overshadowing caused by the proposed dwelling. The sunlight illustrations submitted by the Appellant clearly demonstrate this. They highlight the fact that the terraces around the dwelling would receive very little sunlight, particularly at times of the day when they would be most likely to be in use. Due to the presence of the boundary planting and the level of overshadowing the development would provide an enclosed, cramped and overshadowed environment for its occupants.

7. Whilst the Appellant has stated that the residents could sit in the front garden, the only area of the front garden that would receive a reasonable level of sunlight would be the driveway. As such it would have very limited scope for informal recreation.

8. To address this at least some of the trees would need to be removed or regularly cut back, which would detract from the verdant character and appearance of the area. It would also expose the property to increased overlooking from the dwellings at Nos. 237, 239 and 243. As it is there are various ground floor windows and a first floor window at No.243 which would look directly into the garden area immediately to the rear of the proposed dwelling. In view of the topography of the immediate area the scope for overlooking and loss of privacy is considerable between these properties.

9. As stated in the National Planning Policy Framework planning should always seek to secure high quality design and good standard of amenity for all existing and future occupants of land and buildings. Good design is a key aspect of sustainable development and should contribute positively to making places better for people. Developments should function well and add to the overall quality of the area.

10. For these reasons I conclude on this main issue that the scheme would fail to provide satisfactory living conditions for the occupants of the proposed dwelling, due to inadequate daylight and sunlight and poor levels of privacy. Accordingly the scheme would conflict with policies 59.BE and 181.LB of the Eastleigh Borough Local Plan Review (2001-2011), which together and amongst other things seek to ensure that new development respects the character and appearance of the area and provides satisfactory living conditions for existing and proposed residents. In relation to this Appeal these policies are consistent with the NPPF and so are given substantial weight.

Living conditions – No.239

11. The proposed access drive would run in close proximity to the living room window in the side elevation of the dwelling at No.239. Due to its proximity

the use of the driveway would result in noise and disturbance for the occupants of No.239. It is indicated that a close boarded fence would be erected immediately in front of the living room window. Whilst this would help reduce noise and disturbance slightly it would not overcome this concern. In addition, the fence would have a severely enclosing impact on the outlook from that window.

12. The Appellant has stated that the owner of No.239 is looking to replace their living room window with a high level non-opening window. This would significantly reduce the level of noise and disturbance experienced by the occupants of No.239 as well as addressing the visual concerns. The occupants of No.239 would still experience some noise and disturbance via their front and rear living room windows and within their rear garden. Despite this, it would not be excessive or unreasonable bearing in mind any traffic and activity would be limited to that associated with a single dwelling.

13. However the suggested replacement window does not form part of the Appeal proposal and it could not be made the subject of a condition. This is because the dwelling at No.239 falls outside the ownership or control of the Appellant. Accordingly and in the absence of a legal agreement to deal with this matter, I can give no weight to this factor in relation to this Appeal.

14. I conclude on this issue that the scheme would have a materially harmful impact on the living conditions of the occupants of No.239 due to noise and disturbance. It would therefore conflict with policy 59.BE of the Local Plan.

Other matters

15. The benefits of providing a new family dwelling in an established residential area are fully appreciated, although in this instance they would not outweigh the harm identified in relation to the main issues.

16. Concern has been expressed that the proposal would introduce an additional crossover onto Winchester Road which would have an adverse impact on highway safety and the character of the area. An additional crossover in this location could well have an adverse impact on highway safety and the free flow of traffic, although it would have only a marginal impact on the character and appearance of the locality.

17. It is clear from the application details that the proposal includes the stopping up of the existing crossover which serves No.239. As such an additional crossover would not be formed. Unfortunately the existing crossover and access has not been included in the identified application site and is outside the control or ownership of the Appellant. As such it could not be made the subject of a condition and no legal agreement has been submitted to deal with it. Accordingly, this adds to my concerns regarding the proposal.

18. Finally the comments made in relation to wildlife habitats; foundation construction; removal of trees; the height and size of the proposed dwelling; the access width; and plot size have been taken into consideration, but add little to the conclusions on the main issues. The concerns expressed in relation to the handling of the Appeal planning application and the making of a Tree Preservation Order have no bearing on the planning merits of the scheme.

Conclusion

19. My conclusions on both main issues represent compelling reasons for dismissing this Appeal, which could not be satisfactorily addressed through the imposition of conditions.

Elizabeth Lawrence

INSPECTOR