The Planning Inspectorate

Appeal Decision

Site visit made on 7 September 2015

by Robert Parker BSc (Hons) Dip TP MRTPI

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

Decision date: 17 September 2015

Appeal Ref: APP/W1715/W/15/3028068
48 St Margaret's Road, Bishopstoke, Hampshire SO50 6DG

- 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 Richard Paine against the decision of Eastleigh Borough Council.
- The application Ref F/15/75801, dated 9 January 2015, was refused by notice dated 22 April 2015.
- The development proposed is described as "The scheme has been designed to provide a 3 bed 2 storey house within curtilage parking and private garden".

Decision

1. The appeal is dismissed.

Procedural Matters

2. I noted during my visit that the property shown as No 47 St Margaret's Road on the submitted plans is actually No 46. I have proceeded on this basis.

3. The decision notice cites various policies from the Submitted Eastleigh Borough Local Plan 2011-2029. Although the plan has not been formally withdrawn, it was found to be unsound by the examining Inspector and therefore the Council has decided to prepare a new local plan which will cover the period until 2036. I have therefore given very little weight to the policies contained within the document. The starting point for my assessment is the saved policies of the Eastleigh Borough Local Plan Review (2001-2011) (LPR).

Main Issues

4. The main issues in this case are:

   a) the effect of the proposal on the character and appearance of the area;

   b) the effect on the living conditions of the occupiers of No 46 St Margaret's Road, with particular regard to outlook, privacy, daylight and sunlight;

   c) the effect of the proposed parking arrangements on highway safety;

   d) whether sufficient information has been submitted to demonstrate compliance with the Council's policies in respect of environmentally sustainable design; and

   e) whether any harm in respect of the above matters would be outweighed by the benefits of the scheme.

Reasons

Character and appearance

5. St Margaret's Road is a pleasant residential cul-de-sac containing a varied mixture of bungalows and two storey dwellings. The road slopes downwards from east to west and terminates at a turning head. No 48 faces onto this area. The dwelling has a driveway and parcel of garden to the side, on which it is proposed to construct a new detached dwelling.

6. The Council describes the street as being semi-rural owing to its spacious feel. I agree that the gaps between buildings are a defining characteristic of the road. However, I am not convinced that the proposal would erode this to any meaningful degree. The gap between No 46 and No 48 is larger than most and the new dwelling would be equidistant from the buildings on either side. In my opinion, adequate separation distances would be maintained.

7. The new dwelling has been designed with a full gable facing the street. This would be at odds with the prevailing character of buildings with their eaves facing the road. In this respect, the proposal would conflict with the adopted Quality Places Supplementary Planning Document (2011) (QP SPD) which advises that rooflines should complement surrounding development.

8. It would also run contrary to the adopted Urban Character Area Appraisals: Bishopstoke, Fair Oak and Horton Heath Supplementary Planning Document (2008). This seeks, amongst other things, to maintain the predominant orientation of ridgelines in existing development relative to the slope in this particular part of St Margaret's Road.

9. I therefore conclude that, whilst the scheme would not appear unduly cramped, its design would be materially harmful to the character and appearance of the area. As such, it would conflict with saved Policy 59.BE of the LPR. This seeks to ensure that the design of new development takes full and proper account of the context of the site including the character and appearance of the locality or neighbourhood.

Living conditions

10. Although not included as a reason for refusal, concerns have been raised regarding the effect of the proposal on the living conditions of the occupiers of No 46 St Margaret's Road. During my visit I was able to assess the scheme from within this property.

11. No 46 is an end-terrace dwelling. Its ground floor living room faces the street. Behind that is a kitchen diner and to the rear of that a utility room. Both have windows in the flank wall of the building. These currently look out over the boundary fence towards No 48 and the trees beyond. The proposal would alter this outlook to one of a two storey brick wall at a distance of approximately 2.5 metres.

12. Whilst there is no right to a private view over adjoining land, the effect of proposed development on outlook is a material planning consideration. Although residents of No 46 are unlikely to spent significant amounts of time in their utility room, the kitchen diner is a habitable space and I would anticipate this area being used on a regular basis. Notwithstanding the absence of any objection from the Council I have considerable sympathy with the concerns of

the neighbour. In my judgement, the proposed development would be oppressive and would have an unacceptable impact upon outlook and levels of daylight and evening sunlight.

13. In this respect the scheme would conflict with the QP SPD which advises that the impact of adjoining structures on the level of daylight available is particularly important in living rooms, dining rooms and kitchens.

14. Concerns have also been raised in relation to the effect on a rear facing bedroom window. However, I consider that the proposal would maintain a satisfactory outlook from this window. Whilst there would be some additional overlooking of the garden to No 46, there are already views across this area from the first floor windows in the side of No 48. I am also mindful that a degree of mutual overlooking is to be expected in built-up areas. For these reasons a dismissal of the appeal on the grounds of loss of privacy would not be justified.

15. I conclude on this issue that the proposal would have an unacceptably harmful effect on the living conditions of the occupiers of No 46. It would therefore conflict with Policy 59.BE of the LPR insofar as it seeks to ensure that proposals avoid unduly interfering, disturbing or conflicting with adjoining or nearby uses, in respect of issues such as loss of daylight and loss of outlook.

Parking arrangements and highway safety

16. The proposed dwelling would be provided with two dedicated off-street parking spaces. However, this would be at the expense of the existing dwelling, the driveway for which would be lost as a result of the development. The occupiers of No 48 and their visitors would be encouraged to park directly in front of the property and within the turning head. This would hinder the manoeuvring of refuse lorries and other large vehicles which could then be forced to reverse a considerable distance along St Margaret's Road.

17. The Council's requirements for parking are set out in the adopted Residential Parking Standards Supplementary Planning Document (2009) (Parking SPD). The guidance seeks a well designed solution that accommodates the expected level of car ownership for the Borough. This can either be in the form of off-street provision (as in the case of the proposed dwelling) or specifically identified and designed on-street parking areas. However, the latter is subject to the proviso that it should not impact on the capacity, operation and safety of the highway. In my view, the proposal would fail to take proper account of this requirement.

18. The appellant argues that there is sufficient frontage on the existing property to form a new parking space. However, nothing is shown on the plan and I am unclear how this would be achieved. Moreover, the Parking SPD indicates a requirement for 2 spaces which in the context of this scheme may obstruct vehicular access to adjacent properties.

19. I therefore conclude that the scheme would make inadequate provision for parking in relation to No 48. In forcing parking to take place on the street the proposal would risk prejudicing the proper operation of the turning head to the detriment of highway safety. As such, it would conflict with saved Policies 59.BE, 100.T and 104.T of the LPR and the provisions of the Parking SPD. The general

thrust of these is to ensure that developments have adequate parking arrangements which do not adversely impact upon the existing highway network.

Environmentally sustainable design

20. Policy 34.ES of the LPR states that planning permission will only be granted for proposals which make an appropriate contribution towards the Government's target to reduce levels of carbon dioxide and other greenhouse gases by ensuring the use of the most sustainable construction materials and construction methods; minimising the energy demands and maximising the proportion of energy that is generated from renewable sources.

21. Guidance is contained in the adopted Environmentally Sustainable Development Supplementary Planning Document (2009) (ES SPD). This links not to Policy 34.ES but to other saved policies within the LPR relating to a range of sustainable design issues.

22. The policies of the LPR and guidance within the ES SPD have been overtaken to a large extent by the Government's withdrawal of the Code for Sustainable Homes and the introduction of new national technical standards[1]. These will effectively replace local standards, although transitional arrangements are in place in respect of water efficiency and energy performance.

23. Although the planning application was not accompanied by a Sustainability Statement or 'Pre-assessment estimator' it seems to me that this is now less relevant in light of more recent changes nationally. I would be satisfied, in this particular case and pending any review of the ES SPD, to rely upon a planning condition to secure the relevant details – insofar as they are not covered by the national technical standards. As such, this matter would not constitute a reason to dismiss the appeal.

Planning balance

24. Paragraph 47 of the National Planning Policy Framework (the Framework) advises that there is a need to boost significantly the supply of housing. The Council is unable to demonstrate a five year supply of deliverable housing land. Paragraph 49 states that in such circumstances relevant policies for the supply of housing should not be considered up-to-date.

25. Paragraph 14 of the Framework sets out the presumption in favour of sustainable development. It directs that where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

26. The appeal proposal would make a very modest but nonetheless valuable contribution towards the shortfall of housing. This, together with the creation of employment opportunities during construction would constitute the main benefits of the scheme. Against this I must balance the harm to the character and appearance of the area, the living conditions of adjoining residents and highway safety. Notwithstanding the weight which must be placed on the need for housing, I consider that these adverse impacts would significantly and demonstrably outweigh the benefits of providing a single dwelling.

[1] Written Ministerial Statement dated 25 March 2015

Other Matters

27. I note that there is disagreement over the dimensions of the site and the position of the boundary with No 46. However, the proposed plans were based upon a digital site survey and therefore I have no reason to doubt their accuracy. Any dispute over landownership is not a planning matter and would need to be resolved privately between the relevant parties.

28. According to the case officer report planning obligations towards community infrastructure, public open space and sustainable transport works were not requested on the basis of the change to national policy introduced by the Written Ministerial Statement dated 28 November 2014. The High Court[2] has since held that the policies within the Statement must not be treated as a material consideration. The Council may therefore take the view that contributions are now appropriate. Whether or not this is the case, I am dismissing the appeal for other reasons and therefore my decision does not turn on this issue.

Conclusion

29. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR

[2] West Berkshire District Council and Reading Borough Council v Secretary of State for Communities and Local Government [2015] EWHC 2222 (Admin).