



Appeal Decision

Site visit made on 21 May 2024

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2024

Appeal Ref: APP/W1715/W/23/3323951

Larkby, Kew Lane, Bursledon, Hampshire SO31 8DD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr James Youngman against the decision of Eastleigh Borough Council.
 - The application Ref is F/22/93962.
 - The development proposed is the demolition of the existing house for a replacement new build dwelling with associated landscape works.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing house for a replacement new build dwelling with associated landscape works at Larkby, Kew Lane, Bursledon, Hampshire SO31 8DD in accordance with the terms of the application, Ref F/22/93962, subject to the conditions in the attached schedule.

Preliminary Matters

2. Since the Council determined the application an updated version of the National Planning Policy Framework (the Framework) came into effect. The main parties have been invited to provide further comments on the new Framework. Where received I have taken them into account in my decision. I am satisfied no party would be prejudiced by determining the appeal accordingly.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area, with specific reference to the Old Bursledon Special Policy Area (the OBSPA) and trees.

Reasons

4. Although located close to the Old Bursledon Conservation Area (the OBCA), the evidence before me indicates that the appeal site and other nearby properties on Kew Lane lie within an area purposefully excluded from this designation when the OBCA's boundaries were last reviewed. Whilst considered by the Council to comprise a lack of built form of architectural merit or historical significance nonetheless, Policy BU7 of the Local Plan¹ seeks to prevent new development from eroding the valued character of the OBSPA.
5. To do this, Policy BU7 controls further development by limiting the increase in volume permitted beyond the size of the original dwelling when the OBCA was

¹ Eastleigh Borough Local Plan 2016-2036 (the Local Plan)

first designated to 25 per cent. In addition, Policy BU7 seeks to prevent the creation of a dwelling which is disproportionately larger than the one it replaces. This control also forms part of the requirements in Policy DM26 of the Local Plan concerning replacement buildings in the countryside where a comparison with neighbouring properties and the size of the plot is also part of this assessment. However, neither policy sets out the meaning of the term disproportionately larger in the context of a replacement dwelling.

6. Notwithstanding the lack of substantive evidence confirming the size of the existing dwelling when the OBCA was designated, the footprint and volume of the proposed replacement dwelling would be significantly greater than the current bungalow. Nevertheless, the overarching purpose of Policy BU7 is to ensure the character of the OBSPA is maintained. To achieve this, other criteria requiring a planning judgement to be made are set out alongside the volume calculation. This includes ensuring development does not contribute to the cumulative urbanisation of the area and conserves the undeveloped landscape between buildings.
7. The replacement dwelling would be situated a similar distance back from Kew Lane as the existing property, thereby maintaining the physical separation between the built form and the lane. This would also preserve the contrasting features of the narrow lane enclosed by mature hedges and wooded areas against the more open and generously sized plots which are characteristic of the area.
8. The proposed dwelling would be a similar height to the existing property with the majority of additional floorspace and volume located to the rear. As the site slopes down away from the lane, the staggered arrangement of the proposed living and bedroom areas also steps down. This ensures that, despite its size, the replacement dwelling would have a similar low profile as the existing dwelling against the backdrop of substantial mature trees and wooded areas. Furthermore, given the extensive depth of the plot, the proposed development would be comfortably accommodated within a spacious garden setting.
9. The removal of the existing garage, currently positioned on the higher ground close to the site's access, would reduce the prominence of the built form visible from the lane through the gap in the hedge line at the site access. The replacement dwelling would have a wider façade than the existing property. However, the use of different roofscapes combined with floor-to-ceiling fenestration and material detailing to the connected sections of the dwelling at the front of the property, ensures the width does not dominate the building form. Coupled with the changes in levels between the appeal site and its immediate neighbours, the retained and new planting limits the visual relationship between these properties whilst conserving the undeveloped landscape setting.
10. Consequently, the proposed development would not be an unduly prominent or visually intrusive feature and the verdant character and tranquil environment of its surroundings would be retained. As such, it would not contribute to the cumulative urbanisation of the area. Furthermore, the replacement dwelling would not be too large when compared with the prevailing characteristics of properties nearby and I conclude that it is not disproportionately larger than the existing dwelling, the appeal site or its surroundings.

11. The three mature trees located alongside Kew Lane are covered by a Tree Preservation Order (TPO)² which lists them as Oaks. These are to be retained as part of the proposed development. In response to the Council's concerns regarding the effect of the enlarged driveway on these trees, a revised Tree Report was submitted with the appeal³. This includes a Tree Protection Plan (TPP)⁴ which indicates the root protection areas of the retained landscape features, the proposed location of tree protection fencing to be erected during the construction of the proposed development and no-dig zones.
12. The TPP demonstrates that the proposed driveway and garage are located outside the root protection areas of two of the TPO⁵ trees. However, part of the enlarged driveway and new garage would be sited within the root protection area of the third, more substantial, protected tree. On this basis, the Tree Report proposes that a no-dig zone covers most of the proposed driveway and garage to prevent the health and long-term vitality of the trees from being impacted. Furthermore, the use of a cellular confinement system to a specific depth is proposed with a permeable top layer. This reflects the guidance set out in the Trees and Development Supplementary Planning Document (the Trees SPD).
13. I conclude that the proposed development would not harm the character and appearance of the area, with specific reference to the OBSPA and trees. It complies with policies S5, DM1, DM26 and BU7 of the Local Plan which, in combination, seek to ensure new development does not have an unacceptable impact on the character and appearance of an area. It also accords with the Trees SPD in respect to the approach to works within root protection areas.

Other Matters

14. My attention has been drawn to the nearest listed building to the site - the Grade II Old Rectory. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Area) Act 1990, I have paid special regard to the desirability of preserving the setting of this designated heritage asset. However, combined with the sloping topography, the dense landscape features, spaces between the buildings and the intervening gardens, there are no visual or physical connections between the appeal site and the listed building. The replacement dwelling, therefore, would not harm the setting of this listed building.
15. The site is located within the catchment of The Solent and Southampton Water Special Protection Area (the Solent SPA), a European Designated Site which is afforded protection under the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations). The designation of the Solent SPA seeks to ensure the protection of this Habitat Site, an objective which is under pressure from the increase in residential development within its catchment.
16. As the proposed development comprises a replacement dwelling as opposed to a new dwelling, there would be no increase overnight accommodation. Consequently, the proposed development would not cause any likely significant effects on the designated site, either alone or in-combination with other plans and projects. It is, therefore, not necessary for me to undertake an appropriate

² Ref: TPO 342E dated 26 April 1995

³ Prepared by Ross Consulting, Rev B dated 5 June 2023

⁴ Dwg No: RC_TPP_9_12_22 Rev 1 dated 5 June 2023

⁵ Tree ref: T2 and T13

assessment. I conclude that the development would not result in an adverse effect on the integrity of the Solent SPA, in accordance with the Habitat Regulations.

Conditions

17. I have considered the Council's suggested conditions considering advice contained within the Framework and the PPG⁶. I have undertaken minor editing, rationalisation and reordering, in the interests of precision and clarity. In addition to the standard time condition, I have imposed a condition requiring that the development be carried out following the approved plans, for the avoidance of doubt and in the interests of certainty.
18. To protect the existing landscape features and preserve the character and appearance of the area, I have imposed conditions requiring the approval and implementation of an Arboricultural Method Statement (AMS). The AMS includes the need to prepare an invasive species containment plan to protect ecosystems on and near the site, rather than subject to a separate condition. Also, in the interests of the character and appearance of the area, a condition requiring the development to be constructed using the materials shown on the Materials Plan⁷ is imposed.
19. A condition requiring a Construction Method Statement (CMS) to be approved has been imposed to ensure demolition and construction works are controlled in the interests of the character and appearance of the area, and the living conditions of neighbouring occupiers. It is not necessary to impose separate conditions relating to working hours and preventing the burning of materials on site as these can be addressed with the CMS.
20. I have imposed conditions requiring details of the surface water drainage works and foul sewage disposal to be approved by the Council to ensure satisfactory provision is implemented for the replacement dwelling. These conditions do not need to make specific reference to the root protection area of the existing tree close to the proposed garage as this is covered by the arboricultural condition.
21. Conditions relating to the submission and approval of biodiversity and the implementation of the recommendation in the Ecological Appraisal Report have been imposed. These will ensure the biodiversity enhancement requirements of Policy DM11 of the Local Plan are met and the species on the site are protected. I have not imposed a separate condition relating to a Bat Low Impact Class Licence as this is required to implement the Ecological Appraisal Report.
22. To meet the requirements of Policy DM29 of the Local Plan, I have imposed a condition relating to the accessibility and adaptability of the dwelling. In the interests of water efficiency, I have imposed a condition limiting the daily water consumption per person. To ensure the safety of the users of Kew Lane, a condition requiring the vehicle parking area shown on the approved plans to be laid out before the occupation of the dwelling has been imposed.

⁶ National Planning Practice Guidance (PPG)

⁷ Dwg No: 00_22_09.29

Conclusion

23. For the reasons given above, and taking into account all relevant matters raised, I conclude that the appeal should be allowed.

Juliet Rogers

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Dwg No: 2205_101 rev A – Site Location Plan
 - Dwg No: 2205_103 rev B – Block Roof Plan
 - Dwg No: 2205_201 rev B – Proposed Floor Plan
 - Dwg No: 2205_401 – Proposed Elevations Sheet 1 of 2
 - Dwg No: 2205_402 – Proposed Elevations Sheet 2 of 2
 - Dwg No: 2205_410 – Bay Elevation and Section
 - Dwg No: 2206_411 – Visuals View 1
 - Dwg No: 2206_412 – Visuals View 2
 - Dwg No: 2206_413 – Visuals View 3
 - Dwg No: 2206_414 – Visuals View 4
 - Dwg No: 2206_415 – Visuals View 5
 - Dwg No: 00_22_09.29 – Materials Plan
 - Dwg No: 00_22_09.29 Rev 01 – Planting Plan
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on Dwg No: 00_22_09.29 – Materials Plan.
- 4) No site clearance, preparatory work or development hereby permitted shall commence until an Arboricultural Method Statement (the AMS), based on the Tree Report, prepared by Ross Consulting and dated 5 June 2023, has been submitted to and approved in writing by the local planning authority. All tree work shall be carried out in accordance with British Standard BS 3998: Tree work: Recommendations (or an equivalent British Standard if replaced). The AMS shall include, as a minimum, a Tree Protection Plan, an invasive species containment plan, an arboricultural monitoring statement and an implementation timetable. The works set out in the approved AMS shall be carried out as approved and in accordance with any timetable therein.
- 5) No site clearance, preparatory work or development hereby permitted shall commence on site until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. The CMS shall include, as a minimum, the detailed methods as set out in Section 4.1 of the Ecological Appraisal Report, prepared by Cherry Tree Ecology Ltd and dated 10 June 2023. The development shall be carried out in accordance with the approved CMS.
- 6) No development hereby permitted shall commence until a detailed surface water drainage scheme including a timetable for its delivery and scheme for future maintenance for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be

- implemented and thereafter maintained in accordance with the approved details.
- 7) No development hereby permitted shall commence until a detailed foul sewerage disposal scheme including a timetable for its delivery and scheme for future maintenance for the site has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter maintained in accordance with the approved details.
 - 8) Prior to the occupation of the dwelling, a biodiversity mitigation and enhancement plan shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter maintained in accordance with the approved details.
 - 9) Prior to the occupation of the dwelling, the measures included in the approved Ecological Appraisal Report, prepared by Cherry Tree Ecology Ltd and dated 10 June 2023 shall be implemented and therefore maintained in accordance with the approved details.
 - 10) The development hereby permitted shall not be occupied until the Building Regulations' optional requirement of a water consumption rate of no more than 110 litres per person per day has been complied with.
 - 11) The development hereby permitted shall not be occupied until the Building Regulations requirements for accessibility and adaptability have been complied with.
 - 12) Prior to the occupation of the dwelling, space for the vehicle parking as shown on Dwg No: 2205_201_Rev A shall be laid out and that space shall thereafter be kept available at all times for the parking of vehicles.

End of Schedule