

Appeal Decision

Site visit made on 26 April 2016

by M C J Nunn BA BPL LLB LLM BCL MRTPI

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

Decision date: 27th May 2016

Appeal Ref: APP/B9506/W/15/3140448

Land at 7 Haskells Close, Lyndhurst, Hampshire, SO43 7EN

- 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 Phillip Keighley against the decision of the New Forest National Park Authority.
 - The application Ref: 15/00473, dated 16 June 2015, was refused by notice dated 6 August 2015.
 - The development proposed is described as 'erect a 2 storey dwelling on garden land adjacent to existing property at 7 Haskells Close, Lyndhurst, Hampshire, SO43 7EN'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The effect of the recent *West Berkshire and Reading* Court of Appeal judgment¹ is that contributions for affordable housing and tariff style planning obligations should not be sought for smaller scale development. Comments have been received from the parties on this matter. I deal with this issue in the body of my decision.

Main Issues

3. The main issues are: (i) the effect of the proposal on the character and appearance of the area; and (ii) the effect on living conditions at No 7 Haskells Close, in terms of noise and disturbance.

Reasons

4. The site falls within the New Forest National Park. The statutory purposes of National Park designation are to conserve and enhance the natural beauty, wildlife and cultural heritage of the area, and to promote opportunities for the understanding and enjoyment of its special qualities by the public. The National Planning Policy Framework ('the Framework') at Paragraph 115 also states that great weight should be given to conserving landscape and scenic beauty in National Parks, which have the highest status of protection in relation to landscape and scenic beauty.

¹ Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559 [2016] EWCA Civ 441

5. The development plan comprises the Core Strategy and Development Management Policies DPD ('the Core Strategy'). The site falls within the settlement boundary of Lyndhurst, where in accordance with Policy CP9 development may be acceptable, provided it complies with other Core Strategy policies, including those relating to local distinctiveness and design quality.
6. The appeal site forms part of the overgrown garden of No 7 Haskells Close. It is located at the end of a cul-de-sac of detached dwellings dating from the late 1970s. The plot at No 7 is significantly larger than those adjacent at Nos 1, 3, and 5, and there is a detached double garage set at right angles to the house. It would appear that the larger garden at this property was the consequence of the original estate layout being designed to accommodate various mature trees that previously existed. These trees, however, are no longer present on the site.
7. I appreciate that the appellant has attempted to achieve an attractive high quality design. A similar architectural style is proposed to that of the existing dwellings within the cul-de-sac, incorporating pitched roofs, with gable features to the front and rear elevations. The property would also be on a similar alignment to the adjacent properties. The proposed palette of materials, including facing brickwork and roof tiles, would also blend with others in the locality. Native landscaping is proposed, including replacement trees, to enhance the setting of the house, as well as to encourage habitat creation and biodiversity.
8. That said, I have concerns about the scheme. The new dwelling's frontage would face on to Chapel Lane with vehicular access from that road rather than via Haskells Close. As such, the dwelling would be 'back to front' compared with the other adjacent dwellings, and effectively turn its back on the cul-de-sac. This would result in an odd relationship with the other neighbouring properties within the Close, and undermine the estate's original design concept. The new dwelling's rear facing elevation juxtaposed with the frontages of the other properties would appear discordant and out of keeping within this pleasant Close.
9. At present, the end of the cul-de-sac is attractively framed by the dwelling at No 7, with its generous garden and detached garage. Were this scheme to proceed, there would be a close-boarded fence enclosing the rear garden of the new property, resulting in a barrier at the head of the cul-de-sac, separating the dwelling from others within the group. I acknowledge that new hedging is proposed on the outside of the fence to provide a softer and more rural appearance, but this will take time to become fully established. I consider that the proposed arrangement would not enhance the visual appearance of the end of the cul-de-sac. Furthermore, there would be limited separation with the existing dwelling at No 7 to the south, and a 'pinch point' to the northern boundary. This would give the impression of a rather cramped building within the plot.
10. The creation of a new access from Chapel Lane, along with the necessary visibility splays and proposed gravelled frontage area for car parking, would create a more urbanised feel. I acknowledge the appellant's intention to replace the existing dilapidated fence fronting Chapel Lane with a hedge. However, the relatively limited space at the front given over to soft landscaping

would create a somewhat harsh impression, and fail to provide an appropriate setting for the building.

11. I conclude on the first issue that the proposal would harm the character and appearance of the area. In particular, it would conflict with Policies DP1, DP9 and CP8 of the Core Strategy. Together, these policies require development proposals to enhance local character and distinctiveness, and be sympathetic in terms of siting and layout; make effective and efficient use of land without compromising the character of the local area; and ensure proposals do not individually or cumulatively erode the National Park's character or result in a gradual suburbanising effect.
12. Turning to the second issue, the Authority is concerned that the parking area, positioned directly adjacent to the remaining rear garden of No 7, would lead to noise and disturbance from car movements. However, the rear gardens of the adjacent properties, including No 7, back directly on to Chapel Lane. Therefore, any vehicular movement associated with the new dwelling is likely to be insignificant in comparison with the traffic noise from Chapel Lane. The vehicular activity and any other associated domestic activity would not add noticeably to the noise and disturbance already present from the road. I conclude on this issue that the scheme would not harm the living conditions at the neighbouring property, No 7, in terms of noise and disturbance. There would be no conflict with Policy DP1 of the Core Strategy, to the extent that it seeks to ensure amenity is not adversely affected.
13. The third reason for refusal relates to the absence of a legal agreement to secure financial contributions towards affordable housing, off-site transportation, public open space and mitigation towards the New Forest Special Protection Area (SPA). The appellant originally submitted a draft unilateral undertaking (UU) to address these matters. However, the UU was not signed or sealed and so its provisions could not be legally binding.
14. Following the *West Berkshire and Reading* judgment, the Authority has confirmed that it is no longer seeking contributions towards affordable housing, off-site transportation or public open space for sites such as this. However, the Authority has confirmed that monies would still be sought towards New Forest SPA mitigation and is agreeable to a condition prohibiting development until a planning obligation has been entered into requiring payment of a financial contribution. Such an approach may be permitted by the Planning Practice Guidance² subject to certain criteria being met. However, as I have found the proposal unacceptable for other reasons, the appeal does not turn on this matter.
15. I am aware that no highway safety objection has been raised by Hampshire County Council Highway Authority to the proposed access from Chapel Lane. I acknowledge that a 'historic' dropped kerb exists on Chapel Lane which served an access before this estate of housing was built. I have carefully weighed the advantages of the scheme, including that it would provide additional housing stock, thereby addressing local housing needs, and that it would make efficient use of a site within an established residential area. Indeed, other 'infill' development has already taken place within the estate and so such schemes

² Paragraph 005, Reference ID 21a-005-20140306

are not without precedent. However, none of these considerations outweigh my concerns.

16. I have considered the proposal in the context of the presumption in favour of sustainable development set out in the Framework. However, the Framework is clear that it is proper to promote or reinforce local distinctiveness. I find this proposal would fail to achieve that objective. Therefore, I conclude that the appeal should be dismissed.

Matthew C J Nunn

INSPECTOR