



Appeal Decision

Site visit made on 14 December 2020

by **Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 18 December 2020

Appeal Ref: APP/B9506/W/20/3257882

Land off Armstrong Lane, Brockenhurst SO42 7SY

- 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 P Lister of Solent Projects Ltd against the decision of New Forest National Park Authority.
 - The application Ref 20/00022, dated 12 December 2019, was refused by notice dated 9 March 2020.
 - The development proposed is described as 1no. new dwelling; 1.2 metre high wire fencing; associated works and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effects of the development on:
 - the character and appearance of the area, including protected trees, and the New Forest National Park (the National Park); and
 - the living conditions of occupants of neighbouring dwellings, with specific regard to noise and disturbance.

Reason

Character and appearance

3. The site is an open, roughly triangular plot fringed by tall trees, which stands in an elevated position alongside Armstrong Lane. The latter is a roughly surfaced track along which informal public access is allowed, and connections with public footpaths exist. In the latter regard the lane helps to link a large area of open space towards the centre of the settlement with the landscape to the north.
4. Armstrong Lane lies roughly at the centre of an area predominantly characterised by large dwellings set within spacious plots. These are appreciable from many parts of the lane, and the routes with which it connects. As the site is itself severed garden land, it is not surprising that its openness, viewed relative to development adjacent to the east boundary, appears consistent with the general pattern. Armstrong Close, which backs onto Armstrong Lane opposite the site, differs in that it is a more typically suburban, and relatively dense bungalow development. Whilst it is not therefore consistent with the prevailing pattern, it otherwise does very little to inform the character of Armstrong Lane or that of the site.

5. The development would entail the construction of a compact single storey bungalow at the back of the tapering plot. In terms of dwelling type, and plot size, the development would be immediately at odds with the prevailing pattern. This impression would be strengthened by the close proximity of the proposed dwelling to its boundaries, and to the dwelling to the east in particular. This would cause it to appear cramped within its plot. In these regards the proposed layout would fail to complement the general spaciousness of existing development along Armstrong Lane.
6. Hedging has been proposed within the site. Given the currently sparse nature of low level boundary vegetation, this could help to screen the dwelling. In view of the limited space available, and the established presence of trees, it is however unlikely that such hedging would thrive or grow to a height sufficient to be fully effective in this role. The development's lack of integration would therefore be readily perceived from outside the site, including in views straight up the access.
7. Mature trees, including 2 substantial oaks on the site boundary, provide a semi-rural character to Armstrong Lane and its setting. Given the its linkage with footpaths, they also create a tangible sense of connection and continuity between the settlement and the landscape of the National Park beyond.
8. Both of the oak trees are protected by Tree Preservation Order (TPO). A further protected tree is located in a plot adjacent, and other tall trees grow along the opposite side of Armstrong Lane. Together these trees make a strongly positive contribution to the character and appearance of the lane. The boundary oak identified as 'T4' is particularly notable, given its significant height and spread.
9. The siting of the proposed dwelling has been informed by the constraints imposed by the root protection areas (RPAs) of the trees. Indeed, that of T4 extends across a large proportion of the site. Whilst some minor incursion into the RPAs would nonetheless occur, the roots would otherwise constrain future use of the areas that they cover. The garden would furthermore be subject to significant and prolonged shading from trees within and outside the site, and both the garden and dwelling would be subject to acute overbearing. The effects of shading and overbearing would each be accentuated by the tapering nature of the plot.
10. The application was not refused on grounds that the development would provide unacceptable living conditions for future occupants. Nonetheless, the above factors would, in combination, and alongside further nuisance arising from leaf litter and falling branches, be likely to adversely affect the use and enjoyment of the development by its future occupants. Consequently, it is likely that pressure to remove or reduce the size of the 2 trees within the plot would arise. Though the existence of TPOs would provide grounds for the Authority to resist such pressure, adverse effects on living conditions would be likely to weigh in favour of action. The future of the trees on the boundary, as too therefore the positive contribution that they make to the character and appearance of the lane, and that of the National Park more broadly, would therefore be placed at risk were the development to proceed.
11. For the reasons outlined above I conclude that the development would cause unacceptable harm to the character and appearance of the area, including in relation protected trees, and the National Park. It would therefore conflict with Policy DP2 of the Local Plan 2016-2036 (the Local Plan) which amongst other

things seeks to secure development that is sympathetic in terms of its appearance, scale, siting and layout, and that protects trees; and Policy SP17 of the Local Plan, which seeks to resist development that would erode the National Park's local character.

Living conditions

12. As outlined above, the dwelling would be located in close proximity to an existing dwelling to the east, and the boundary of the dwelling to the north. The dwelling to the north is however located some distance from the boundary. In this regard the Authority's concerns principally focus on the dwelling to the east.
13. Use of the proposed dwelling would give rise to activity and the generation of noise within the plot. Motor vehicles would represent the main source. The proposed parking space would however be located alongside an existing garage on the street frontage, and not therefore in close proximity to the neighbouring dwelling. In this location it is highly unlikely that harm would arise from any noise generated from parking and manoeuvring.
14. Noise would arise from use of the garden, albeit, in view of my reasons above, scope for garden activities would be greatly constrained by the limited space available, and by heavy shading. The property to the east is otherwise bounded on 2 other sides by other domestic gardens, and in this context, it is unlikely that noise generated by limited use of the garden would be either unusual or exceptionally harmful.
15. Having regard to the dwelling itself, whilst bedroom accommodation would be located closest to the eastern boundary, I have been provided with no particular reason to suppose that noise generated within the main daytime living spaces would be unusually loud.
16. For the reasons outlined above I conclude that, having specific regard to noise and disturbance, the development would not have an unacceptable effect on the living conditions of occupants of neighbouring dwellings. In this context the development would therefore comply with Policy DP2 of the Local Plan, to the extent that this seeks to secure development that would not have unacceptably adverse effects on amenity in terms of 'additional impacts'. Such compliance would not however alter the development's overall conflict with Policy DP2, given my findings in relation to character and appearance above.

Other Matters

17. The plot lies within the defined village of Brockenhurst (the DV) within which the Local Plan supports the principle of housing development. In this regard the development would provide an additional small dwelling, making use of what the appellant describes as a vacant, unused and abandoned site. This would contribute to the general need for new housing. The site's presence within the DV does not however mean that residential development should occur regardless of its effect. Indeed, the development would conflict with the Local Plan taken as a whole, and the limited social and economic benefits of providing one additional dwelling would not outweigh the environmental harm that the development would cause.
18. Planning permission was partly refused on the basis that the scheme would fail to avoid or mitigate likely significant effects on the integrity of the New Forest

Special Protection Area (SPA) and 'Solent SPAs' when considered alone or in combination with other plans and projects. The Authority's appeal statement makes more specific reference to the Solent and Southampton Water SPA. Likely significant effects would arise due to increased recreational pressure and the discharge of nutrients in wastewater.

19. The parties agree that mitigation with regard to nutrients could be secured through use of a Grampian condition. The appellant has also proposed this in relation to recreational impacts, but in this case without agreement from the Authority. Neither party has however addressed advice within the Planning Practice Guidance which indicates that use of a negatively worded condition to require an applicant to enter into a planning obligation or other agreement is unlikely to be appropriate except in exceptional circumstances. Mitigation measures are however generally secured in this way.
20. Had I been minded to allow this appeal, I would have sought a screening direction from the Secretary of State in accordance with Regulation 14(2) of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017. I would also have needed to undertake an Appropriate Assessment. However, as I am dismissing the appeal for other reasons, I do need to consider these matters any further.

Conclusion

21. For the reasons set out above I conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR