
Appeal Decision

Site visit made on 10 November 2016

by David Murray BA (Hons) DMS MRTPI

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

Decision date: 30 November 2016

Appeal Ref: APP/D1780/W/16/3157859

415 (upper floor) Shirley Road, Southampton, SO15 3JF.

- 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 Larger London Land Co. against the decision of Southampton City Council.
 - The application Ref. 15/02328/FUL, dated 23 March 2015, was refused by notice dated 4 March 2016.
 - The development proposed is the change of use of first floor retail use (Class A1) to studio flat and addition of new entrance door.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of first floor retail use (class A1) to studio flat and addition of new entrance door, at 415 (upper floor) Shirley Road, Southampton, SO15 3JF in accordance with the terms of the application, Ref. 15/02328/FUL, dated 23 March 2015, and the plans submitted with it, subject to the conditions set out in the attached Schedule.

Main Issues

2. The main issues are:
 - Whether the occupiers of the proposed studio flat on the first floor would have reasonable living conditions;
 - Whether the proposal mitigates the effects on the Solent Coast Special Protection Area (SPA).

Reasons

3. The appeal site comprises premises at first floor level sited to the rear of the main property which fronts Shirley Road which is a local commercial and retail centre. The premises have access at first floor level via an external courtyard which provides access to the existing flat of No.415A.
 4. It is proposed to create a single residential unit with pedestrian access from the rear via an internal staircase. Amended plans submitted with the appeal show that refuse bins can be accommodated in a space at the ground floor created from the adjacent room.
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Effect on living conditions

5. The Council's concern about the suitability of the premises for residential occupation relate to the location and nature of the new unit; its surveillance and its aspect. The appellant says that since the application was refused the track leading to the back door of the building has been resurfaced and improved and external lights have been added to the premises to improve visibility and security and I noted these changes at my site visit.
6. I also note that the site would be accessed from a pedestrian way between Shirley Road and the residential area around Church End and Cherry Walk and at the time of my visit this appeared to be a well frequented pedestrian route. Given the site's location just off the main thoroughfare and local centre of Shirley Road I do not share the Council's concern about the unsuitability of the access way and lack of natural surveillance.
7. In terms of the internal arrangements of the proposed residential flat this would be small but would have all the facilities necessary for day to day independent living. There would only be one window giving natural light to the bed/sitting room and the outlook and aspect from this window would be partly over the roof of the adjoining garage premises. Nevertheless, when sitting in the room, the window would allow an occupier to see the sky and there would be an angled view towards other residential properties at a distance away.
8. Clearly the residential flat would not be suitable for all, particularly because of the restrictions caused by the access stairs, but it appears to me that the unit would provide reasonable quality living for a single person and it lies in a location with a high level of accessibility to services and public transport. The Council's concern about the pedestrian access to the public footpath being over land not within the red line of the application site can be resolved by a 'Grampian' condition to ensure that the owner has a legal right to such access.
9. The Council makes reference to the provisions of the Residential Design Guide (2006) and I have considered the aspects relating to 'Maintaining Residential Standards'; 'Access and Parking' and 'Waste management' but I find that the proposal is not materially in conflict with the broad thrust of such standards. In any event, I have placed greater weight on the policies of the National Planning Policy Framework which seeks to encourage sustainable development. Moreover the government seeks to significantly boost the supply of housing and deliver a wide choice of high quality homes to meet the diverse range of needs in the community. I am satisfied that the proposal would achieve this in an acceptable way.
10. Overall on this issue I find that the proposal accords with the requirements of Policy H5 and H7 of the adopted Local Plan (2015) in favour of the conversion of non-residential premises and the creation of a suitable residential environment and linked policy SDP1 as the proposal would not unacceptably affect the health, safety and amenity of the City or its citizens; would have reasonable lighting and surveillance to satisfy Policy SDP10; and would have adequate access for pedestrians to satisfy Policy SDP11.

Mitigation of the effects on the SPA

11. This issue relates to the effects of additional people living in the vicinity of the Solent Coast Special Protection Area (SPA) caused by additional residential

development and the need to secure mitigation of the effects of this impact. The appellant has signed a Habitats Mitigation Contribution Agreement dated 31 August 2016 where he agrees to contribute the sum of £176 towards mitigation measures. On this basis the Council has confirmed that the second reasonable for refusal has been addressed. Further, there is no evidence before me which indicates that the tests of obligations as referred to in paragraph 204 of the Framework, or the Community Infrastructure Regulations, cannot be complied with. I am therefore satisfied that the proposal makes provision for the reasonable mitigation of the effects of the development on the SPA

Planning Balance

12. Bringing together my conclusions on the main issues I have found that the proposal would result in an additional residential unit in an accessible location and would provide a reasonable living environment for the occupier and generally accords with the relevant provisions of the development plan. The proposal also now makes provision for the mitigation of the effects on the Solent Coast SPA. The factors in favour of the development mean that it would also constitute sustainable development when the Framework is read as a whole. This conclusion is not outweighed by any other factor. I will therefore allow the appeal.
13. In terms of conditions, the Council recommends five which I will consider under the same numbering. In addition to the statutory condition on the timing of the implementation of the development (1), a condition to ensure the provision of bin storage is reasonable and necessary in the interests of amenity and for recycling but I will amend the one put forward (2) to relate to the amended plans. All of the external lighting condition proposed is not necessary as suitable lighting has been installed but I will amend the condition proposed (3) so as to ensure that the lighting installed is retained for so long as the residential use exists. I will also modify the condition (4) to require cycle storage as it is too prescriptive and the method of locating the bicycle storage is best left to the owner/occupier. It is reasonable and necessary that the plans approved are specified in the interests of clarity and the development must be undertaken in accordance with these plans. Finally I will impose a 'Grampian' style condition to ensure that the residential use does not commence until the appellant is able to demonstrate that there is a legal right to establish the pedestrian access between the entrance door and the public right of way in the interest of ensuring an appropriate access to the development.

Conclusions

14. For the reasons given above I conclude that the appeal should be allowed.

David Murray

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Before the development hereby approved first comes into operation, the storage for refuse and recycling shall be provided in accordance with the amended plan 15/01/100c dated June 2016 and shall be retained thereafter. The bins shall be presented on collection days at the end of the service way adjacent to Church End and kept within the bin store at all other times.
- 3) The security sensor external lighting installed on the building above the entrance to the residential unit shall be maintained and retained thereafter for the duration of the residential use.
- 4) Prior to the first use of the living space hereby approved, secure storage for a bicycle shall be provided, and this facility shall be retained for the duration of the residential use.
- 5) The development hereby permitted shall be carried out in accordance with the approved plans: 14/08/09; 14/08/05A; 14/08/06; 14/08/07 except in relation to the bin store which shall accord with the amended plan 15/01/100c dated June 2016.
- 6) The residential use hereby permitted shall not commence until the applicant is able to demonstrate a legal right of pedestrian access from the rear of the premises to the public right of way which runs to the south-east of the site.