
Appeal Decision

Site visit made on 17 January 2017

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

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

Decision date: 1st February 2017.

Appeal Ref: APP/D1780/W/16/3159683

Land rear of 110 Shirley Road, Southampton SO15 3FD

- 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 Clydesdale Maintenance Ltd against the decision of Southampton City Council.
 - The application Ref 16/01165/FUL, dated 5 July 2016, was refused by notice dated 23 August 2016.
 - The development proposed is the construction of a detached bungalow.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (i) Whether the development would provide suitable living conditions for future occupants and existing residents;
 - (ii) The effect of the development on the character and appearance of the area;
 - (iii) Whether the development would be compatible with the nearby public house, with regard to the noise and disturbance;
 - (iv) The effect of the development on the Solent European Sites.

Reasons

Living Conditions

3. The appeal site comprises No 110 Shirley Road which is in use as separate flats. The proposed bungalow would be sited within the former rear garden and would be accessed from Andover Road, via a pathway that would be created through the front garden of No 1 Andover Road.
 4. The proposed one-bedroom bungalow would occupy a large proportion of the site and the side and rear walls would be close to the site boundaries. There would be an area of amenity space at the front of the bungalow that would be south facing. However, the amenity space would be relatively small and it would provide limited outdoor space for everyday activities, such as, sitting outside or hanging washing.
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5. Moreover, there is a public house adjoining the appeal site on the corner of Shirley Road and Andover Road. This has an informal beer garden which would be adjacent to the proposed amenity area. At the time of my site visit, the beer garden was being used for storage, but it also contained tables, seating areas and a games table indicating that it is used by customers. Consequently, the beer garden is likely to generate a level of noise and disturbance that would be detrimental to future residents using the amenity area, especially during the summer months.
6. I also saw that the amenity areas of the existing ground floor flats at No 110 are limited in size. Whilst this may be the situation irrespective of the proposal, the side wall of the proposed bungalow would be in very close proximity to the amenity areas. This would contribute to the sense of enclosure which the existing residents of the flats are already likely to experience due to the limited space.
7. The bungalow would be located towards the rear of the site, however, this would result in a poor relationship with No 1 Andover Road which has a two storey gable wall adjoining the site boundary. The gable wall would have a dominant and overbearing effect which would present a poor outlook. I appreciate that the bungalow would be orientated towards Andover Road and there would not be any windows facing the gable. However, the gable would impact on the use of the amenity space as it would erode the quality of the outdoor environment.
8. I appreciate that the proposal would create a larger area of amenity space to be provided for No 1 Andover Road, but this would be located between the existing and proposed buildings and would probably accommodate the bins. As such, it would not be particularly useable.
9. I conclude on this issue that the development would not provide suitable living conditions for future occupants and existing residents. It would, therefore, be contrary to Policies CS16 and CS13 of the Core Strategy,¹ and Policy SPD1 of the Local Plan,² which seek to promote a mix of housing types and ensure that development impacts positively on the health, safety and amenity of the city and its citizens.

Character and Appearance

10. The surrounding area is characterised by predominantly semi-detached and terraced two storey houses, with frontages facing onto the road. In contrast, the proposed detached bungalow would be of a contemporary design with a flat roof, occupying a backland plot.
11. The appellant considers that the size of the site is commensurate with its surroundings. I appreciate that there are a limited number of properties in the vicinity with relatively small gardens, but the majority of houses in the area have long rear gardens. The bungalow would occupy a large proportion of the plot and would reduce the available amenity space for the occupants of No 110 Shirley Road. The development would appear cramped and would not reflect the established character of the wider area in terms of plot size, layout and house type.

¹ Southampton City Council Local Development Framework: Core Strategy Development Plan Document Amended Version incorporating Core Strategy Partial Review (March 2015)

² City of Southampton Local Plan Review (as amended 2015)

12. The appellant asserts that the development would not be visible in the street scene. It would, however, be visible from adjoining properties. Moreover, the development would not take the opportunity to improve the character and quality of the area and the way it functions. The development would not integrate with its surroundings and would appear at odds with its context. I appreciate that the site is within walking distance of Shirley District Centre and the development would be well located for access to public transport, but this does not outweigh the harm described above.
13. I conclude on this issue that the development would have an adverse effect on the character and appearance of the area. It would, therefore, be contrary to Policies SDP1 and SDP7 of the Local Plan, and Policy CS13 of the Core Strategy, which seek to secure development that responds positively and integrates with its local surroundings, and respects the existing layout, scale, density and proportion of existing buildings

Noise and disturbance

14. The residential development would be adjacent to a public house and noise problems may result from the use of amplified music, noise from people (both inside and outside the venue), air conditioning units and from the use of commercial bins.
15. The bungalow would contain two sets of main windows facing towards the shared boundary with the beer garden. The panel fence would not provide effective sound insulation and, consequently, it is likely that noise from the commercial premises would adversely affect the living conditions of future residents. The development would be contrary to paragraph 123 of the National Planning Policy Framework (the Framework) which states that existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land use since they were established. Whilst the neighbouring land use is currently residential, the development would intensify that use and the relationship of the proposed bungalow to the beer garden in particular, is likely to lead to greater conflict than exists at present.
16. I conclude, therefore, that the development would not be compatible with the nearby public house, due to noise and disturbance. It would be contrary to Policy SDP16 of the Local Plan which seeks to avoid noise-sensitive development if its users would be adversely affected by significant noise from existing noise-generating uses.

Protection of the Special Protection Areas (SPAs)

17. The appeal site is within the buffer identified as the area which attracts the majority of visitors to the SPAs. The sites are designated under European law for their migratory and breeding birds. I am advised that studies have shown the birds are suffering from disturbance due to visitors from a wide area. Consequently, there is a need to ensure that the in-combination impacts of new residential development do not damage to migratory bird population, in particular. The Solent Disturbance Mitigation Project has been formulated to provide visitor control measures within the Solent. To fund the wardening and other site specific measures, all new housing within 5.6 kilometres of the SPAs are required to pay a levy of £176 per dwelling.

18. I have been provided with a signed copy of the Council's Habitats Mitigation Contribution Agreement form and receipts that show direct payment of the required sum has been made to the Council, under Section 111 of the Local Government Act 1972. As the contribution has already been paid, the funding is secure.
19. However, as I have found the proposal to be unacceptable for reasons other than the effect upon the European Site, no further consideration of this issue is required. If circumstances leading to a grant of permission had been present, I would be required to give further consideration to the impact upon the European Site in accordance with the Habitats Regulations.³

Conclusion

20. I understand that there has been a previous planning application for a two-bedroom bungalow at the site, which was also refused in February 2015,⁴ and the appeal proposal was developed in an attempt to address the Council's concerns. However, I am not satisfied that the appeal proposal achieves this aim.
21. For the reasons given above, the appeal is dismissed.

Debbie Moore

Inspector

³ Conservation of Habitats and Species Regulations 2010

⁴ Ref 14/01957/FUL