
Appeal Decision

Site visit made on 31 May 2017

by David Murray BA (Hons) DMS MRTPI

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

Decision date: 14 June 2017

Appeal Ref: APP/D1780/W/17/3169741

Cadogan House, 37 Commercial Road, Southampton, SO15 1GG.

- 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 Big Finish Ltd. against the decision of Southampton City Council.
 - The application Ref. 16/01983/FUL, dated 18 November 2016, was refused by notice dated 13 January 2017.
 - The development proposed is the construction of an additional storey to create two 2-bedroom flats.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the additional storey on the living conditions of the occupiers of properties adjoining the site particularly at 44 The Polygon;
 - The effect of the additional residential development proposed on the Special Protection Areas of the Solent Coastline (SPA).

Reasons

Background

3. The appeal site, Cadogan House, comprises a three storey building which is said to have been constructed as an office building in the 1980s but is now being converted into flats. It is sited on the fringe of the city centre between 'The Vestry', a former church building now converted into a restaurant and public house, and a five storey office building 'Oceana House' to the west. To the north of the site lie mainly two storey residential properties fronting 'The Polygon' the closest of which to the rear of the appeal site is No.44 which I understand is converted into flats. The rear garden is used by one of the flats.
4. It is proposed to form an additional floor on part of the roof of Cadogan House and erect a single storey flat roof extension which would comprise two flats each with a front balcony on the part of the original roof. The rear elevation of the addition would have a steeply pitched mansard roof with 8 roof-lights.

Policy context

5. The development plan includes the Council's Amended Core Strategy DPD partial Review (2015) and saved policies in the Local Plan Review (2006) and the adopted City Centre Area Action Plan (2015).

Effect on living conditions

6. In assessing this effect, at my site visit I looked at the relationship with the properties in The Polygon from ground level at the rear of a ground floor flat in Cadogan House and in the glimpses through the gaps between the houses from The Polygon itself. I have also had regard to the photographs submitted by the appellant from the site and also from the Council and taken from the house and garden of No.44 The Polygon.
7. There is a close physical relationship between Cadogan House and the adjoining residential property as shown on the site plan, and the party boundary between the sites lies at an angle. Further, there is a distinct change in level between the two sites, as shown on the cross-section (drawing 913-24) where the level of the first floor flat is about the same height as the garden of No.44 and the flats in the existing mansard roof with roof-lights equate to about second floor / roof level in the residential accommodation. In addition, the cross section is taken not far from the widest point between the two properties and the juxtaposition would be much shorter towards the eastern end of the site.
8. When viewed from the north and the garden of No.44 the existing form of Cadogan House is completed by a parapet wall and the overall height of the building is less than the neighbouring church building and 'Oceana House'. The photographs show that the existing landscaping within the garden of No.44, either by chance or by design and management, screens much of the bulk of Cadogan House from garden level, although it appears that the spread of planting is not as extensive as that depicted on the cross-section referred to above. Nor can the landscaping be regarded as a screening feature that will remain in perpetuity.
9. The proposal to add an additional floor to Cadogan House would mean that the extra building bulk would be readily apparent above the landscaping. Taking into account the height and proximity of the further storey and the scale of existing buildings that already impose on this aspect, I agree with the Council that it would add significantly to the enclosing effect of development around the garden of this property.
10. I have also taken account of the appellant's Daylight Shadow Analysis which shows that for most morning periods the proposed addition would not cast a much greater shadow on the garden of No. 44, while from noon onwards for much of the year the garden is already substantially over-shadowed by Oceana House. Nevertheless, this information demonstrates to me the enclosing effect on the outlook from the residential property which will be made materially worse by the proposal.
11. Overall on this issue, from the evidence put to me I find that the additional floor proposed for Cadogan House, to incorporate the two further flats, would materially harm the outlook of the garden of No.44 and its enjoyment by its users and would not meet the requirements of Policy SDP1 (i) concerning the amenity of City residents. Nor would it contribute to the maximum use of land as supported by Policy H2 because of the conflict with section (iii) as the work would have a significantly detrimental effect on the amenity of the occupiers of adjoining land. Policy AP 16 of the Action Plan concerning 'Design' and the 6th bullet point, indicating a need to respect the existing residential amenity of neighbouring property is also not met.

Effect on Special Protection Areas of Solent Coastline

12. The need to consider the effects of additional residential development on the special habitats forming the Solent Special Protection Areas is set out in Policy CS22 of the Core Strategy. It is clearly established that mitigation of the effects on these habitats is required to provide additional recreational facilities and visitor management. The Council indicates that mitigation measures are being funded by financial contributions from housing development based on a figure of £181 per new dwelling created.
13. I am advised by the Council that in this case the appellant has now made the appropriate contribution to the Solent Disturbance Mitigation Project, subject to the proviso that the money held will be refunded if planning permission is not granted. Although the contribution lodged is not though a formal legal Obligation, I am satisfied that the tests sets out in paragraph 204 of the National Planning Policy Framework (the Framework) are satisfied in that the contribution made is necessary to make the development acceptable in planning terms; it is directly related to the development proposed; and fairly and reasonably related in scale and kind to the development. The contribution means that the effects caused by the additional population that would live on site would be reasonably mitigated and this arrangement satisfies the policy requirement.

Planning Balance

14. Bringing together my conclusions on the main issues I have found that the erection of the additional floor on top of the existing building would have an imposing impact on the outlook from the garden of No.44 The Polygon and, in conjunction with other larger buildings, make the amenity of the garden very enclosed. This would result in significant harm to the living conditions of the users of the garden and would conflict with the policies in the development plan that I have mentioned. Notwithstanding this, I have also found that the Council's concern about the lack of mitigation of the effects of additional population on the Solent Special Protection Areas has now been overcome with the lodging of an appropriate financial contribution.
15. The adverse impacts of the proposal have to be balanced with the benefits. The proposal would make use of previously developed land and contribute to the supply of new housing, both of which are generally encouraged by the Framework as sustainable development. I also acknowledge that the appeal site lies on the fringe of the city centre which is characterised by buildings of a much greater scale than domestic properties.
16. Nevertheless, in the particular circumstances of this site, the adverse effects on the use and enjoyment of the adjacent garden would be significant and this harm is not outweighed by the benefits.

Conclusion

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

David Murray

INSPECTOR