
Appeal Decision

Site visit made on 12 December 2017

by Rory Cridland LLB (Hons), Solicitor

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

Decision date: 18 January 2018

Appeal Ref: APP/D1780/W/17/3181297

Land to the rear of Telford House, 13 Hulse Road, Southampton SO15 2JW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Sharif Ahmed, Frontier Property Investments Ltd against the decision of Southampton City Council.
 - The application Ref 17/00334/OUT/22869, dated 1 March 2017, was refused by notice dated 18 May 2017.
 - The development proposed is the erection of 2 storey building to contain 6 x one bedroom self-contained apartments with associated landscaping, refuse and cycle stores.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Notwithstanding the description of development set out in the application form (and the banner above), the application is made in outline with matters relating to landscaping reserved. I have determined the appeal on that basis.

Main Issues

3. The main issues are the effect of the proposed development on:
 - (i) the character and appearance of the surrounding area;
 - (ii) the living conditions of future occupiers and neighbouring occupiers with particular regard to outdoor amenity space and privacy;
 - (iii) highway safety, with particular regard to parking; and
 - (iv) trees.

Reasons

Character and appearance

4. The appeal site is situated to the rear of Telford House, a large traditional property which has at some time in the past been converted into flats. It forms what is essentially the rear amenity space of this property, albeit that in its present condition it would provide limited enjoyment for the occupants of that building. The site is surrounded by a number of more modern flats as well as having a number of mature trees along its rear boundary. The surrounding area is characterised by a mixture of building styles most of which consist of large apartment blocks of various ages and designs.

5. The proposal seeks to sub-divide the rear amenity space of Telford House and erect a 2 storey building containing 6 x 1 bedroom flats. The plans indicate that the proposed building would be positioned centrally within its plot with its outdoor amenity space located to the rear of the site and an area of hardstanding providing 2 parking spaces to the front.
6. Although the National Planning Policy Framework ("the Framework") indicates that planning authorities may wish to consider the case for setting out policies to restrict inappropriate development in residential gardens, it does not rule out such development and there are no specific development plan policies which restrict backland development in the area. Indeed, the Council accepts the principle of sub-dividing the site and providing flats but raises concerns regarding the extent of development and the elevational design.
7. These concerns are well founded. Paragraphs 3.9.1 and 3.9.2 of the Council's Residential Design Guide¹ ("the RDG") advises that the footprint of buildings and hard surfaced areas should be similar to that of existing nearby dwellings and, outside the City Centre, should not exceed 50% of the site. The proposal would result in footprints, both for the proposed and existing buildings, which would exceed this ratio. This would fail to accord with the above guidance and, provides a good indication that the proposal would result in the overdevelopment of the site.
8. Turning then to its design, the Council has raised concerns regarding the elevational form of the building as well as with its flat roof and proposed materials. Again, I agree with those concerns. Although the Framework advises against attempts to impose architectural styles or particular tastes, it makes clear that it is appropriate to seek to promote or reinforce local distinctiveness. In this case, the positioning of windows and doors, the materials proposed and its flat roof structure would appear in stark contrast to neighbouring Telford House and would fail to complement the design of other nearby buildings.
9. While I acknowledge that this would not be readily apparent from Hulse Road, it would be visible from a number of the surrounding properties from where it would appear alien and at odds with its surroundings. This would negatively impact on local distinctiveness and, when coupled with the overdevelopment of the site, would result in a poor quality development which would be harmful to the character and appearance of the surrounding area.
10. As such, I find it would be contrary to Policies SDP1, SDP7, SDP9 and H7 of the Local Plan² as well as Policy CS13 of the Core Strategy³, all of which seek guard against such harm. It would also be contrary to the guidance set out in the RDG.

Living conditions

11. The Council has also raised concerns with the effect of the proposed development on the living conditions of future occupiers as well as on the occupiers of Telford House. In particular, it points to the size and quality of the outdoor amenity space which it considers would be insufficient to meet their everyday needs.

¹ Southampton City Council Residential Design Guide (2006).

² City of Southampton Local Plan Review (2nd Revision (2015)).

³ Local Development Framework Core Strategy Development Plan Document (2015).

12. I agree with the Council's assessment. Policy SDP1 of the Local Plan permits development only where it does not unacceptably affect the health, safety and amenity of the city and its citizens. Likewise, Policy SDP9 requires proposal to respect local amenity. This is expanded upon in section 4.4 of the RDG which advises, amongst other things, that all developments should provide an appropriate amount of private amenity space which is fit for the purpose intended.
13. The proposal would significantly reduce the amount of outdoor amenity space available for the occupants of Telford House, falling short of the minimum standards set out in paragraph 2.3.14 of the RDG. Furthermore, in view of its proximity to the proposed parking area serving the new building, even the limited amount of space which would remain would not be fit for its intended purpose.
14. Similarly, while I note that the outside space proposed for the new flats would meet the minimum space standards set out in the RDG, most of this space is situated to the rear of the site and would be significantly shaded by the trees located along the rear boundary. Although I accept that some levels of shading can provide welcome relief to users during summer months, I am not persuaded that these benefits would overcome the resultant harm and provide the sort of high quality, usable amenity space envisaged by the RDG.
15. Accordingly, I find the proposal would fail to provide a sufficient amount of usable outdoor amenity space for either future or existing occupiers. This would be detrimental to their living conditions and contrary to Local Plan Policies SDP1 & SDP9 as well as the guidance set out in the RDG.

Impact on trees

16. The Council is concerned with the effect that the proposal would have on the Ash (T4) and Copper Beach (T5) situated along the rear of the site. These trees are visually prominent in their surroundings and make a positive contribution to the locality, helping to screen both the appeal site and the neighbouring apartment block from each other. In the event that they were to be removed, their loss would not only impact on the immediate setting but would be detrimental to character of the immediate area.
17. However, the proposal does not involve the loss of these trees; one of which is situated on neighbouring land. Although the proposed building would be situated within the Root Protection Area of T4 and, to a lesser extent, that of T5, the appellant has submitted an arboricultural assessment which includes a number of measures intended to ensure that the trees are not damaged during construction. Although I note the Council's concerns with this assessment, I consider the protection measures proposed would be sufficient to ensure that the trees are protected during the construction period. As such, I find no conflict with Policy SDP12 of the Local Plan which, amongst other things, requires retained trees to be protected and/or fenced during construction.
18. Nevertheless, the trees are situated along the rear boundary of the site and would result in shading of the outside amenity space for large parts of the day. Furthermore, their combined canopy spread would result in a considerable amount of debris falling onto this area which, when taken with the levels of overshadowing, would result in considerable pressure to prune or fell these trees. While I note that a previous scheme permitted by the Council on this site

would have been positioned closer to these trees, the amenity area for that scheme is to the front of the site and, as such, the ongoing impact on these trees is significantly reduced.

19. On balance, I consider that both the amount of shading and levels of debris likely to accumulate will negatively impact on the enjoyment of this area by the occupants of the proposed dwellings. This would increase the pressure to prune or fell them, which would in turn materially affect their health and ongoing viability. This would fail to contribute to the quality of the local environment and result in further detriment to the character and appearance of the surrounding area, contrary to Policy SDP7 which, amongst other things, requires development to contribute to the quality of the local environment and be compatible with existing natural features.

Highway safety

20. Policy CS19 of the Core Strategy requires all development to have regard to the maximum car parking standards as set out in the Council's Parking Standards Supplementary Planning Document⁴ ("the SPD"). Paragraph 4.2 of the SPD specifies a maximum of 6 parking spaces to be provided as part of the proposed development. Notwithstanding this stated maxima, it also requires proposals to demonstrate that the amount of parking provided will be sufficient for the development proposed.
21. The proposal would provide 2 spaces to serve the proposed development in addition to the four spaces available for Telford House. However, there is no robust evidence which would demonstrate that this amount of parking provision would be sufficient to meet the needs of the occupiers of these buildings. Furthermore, there is no information which would indicate that there is sufficient capacity within the surrounding streets to meet any shortfall. Although I note that the site is situated in an accessible location, offering a choice of sustainable transport options, in the absence of such information, I cannot be certain that the parking demand generated by the proposal would be met.
22. Accordingly, I find the proposal would be contrary to Policy CS19 of the Core Strategy as well as the guidance set out in the SPD.

Other Matters

23. The Council's fifth reason for refusal relates to the lack of any secured planning obligations in order to mitigate the adverse impacts of the proposed development on highways infrastructure, loss of trees and the Solent Coastline Special Protection Area. During the course of this appeal, the appellant submitted a Unilateral Undertaking (UU) which seeks to secure these obligations and provide the mitigation sought. Had the circumstances leading to the grant of planning permission been present, it would have been necessary to give further consideration to whether these obligations meet the relevant tests and whether the UU secures the necessary mitigation. However, as I am dismissing for other reasons, I have not considered these matters further.
24. The parties have referred me to a previous permission on the appeal site which permitted development for the erection of a 2 storey building⁵. Although I do

⁴ (2011).

⁵ Ref: 12/01161/OUT/22869

not have full details of that scheme, it is clear from the information available that it differs both in its siting, overall design and its impact on the nearby trees. Furthermore, in addition to its lower footprint ratio, its elevational features are more in keeping with the surrounding buildings while the provision of outdoor amenity space to the front significantly improves the quality and usability of that space. As such, I do not consider it provides a justifiable precedent for the development proposed. In any event, each application should be considered on its own merits and that is the approach I have taken in determining this appeal.

Conclusion

25. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Rory Cridland

INSPECTOR