
Appeal Decision

Site visit made on 27 February 2018

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 March 2018

Appeal Ref: APP/D1780/W/17/3180583

19 The Grove, Southampton SO19 9LT

- 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 Mrs Natasha Knight against the decision of Southampton City Council.
 - The application Ref 17/00329/FUL, dated 28 February 2017, was refused by notice dated 13 June 2017.
 - The development proposed is the vertical extension converting existing 2 bed bungalow into pair of 2 bed semi detached homes.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effects of the proposal on (a) the living conditions of the occupiers of 17/17a The Grove, having regard to light and outlook, and (b) the Solent and Southampton Water Special Protection Area (SPA) and the Solent Maritime Special Area of Conservation (SAC).

Reasons

Living conditions

3. The new first floor would be alongside the flank of the neighbouring property which has a ground floor lounge window. A further window serving this room is of minor nature given that it faces into another room, a porch, which results in restricted sunlight and ambient light into the lounge.
4. Section 2.2 of the Residential Design Guide Supplementary Planning Document 2006 states that new housing development, extension and modifications to existing homes should ensure that access to natural light, outlook, and privacy is maintained for existing occupants and their neighbours.
5. The lounge window faces south and therefore the position of the appeal bungalow would affect sunlight entering into the neighbour's room during the winter as demonstrated in the Appellant's shadow mapping plans. The same mapping plans show the addition of first floor dormers in the form of a fallback position. With the addition of the dormers, they show that the loss of sunlight to the lounge window would not be much different to the existing situation. However, the proposed first floor would be wider and taller than the dormers

with a pitched roof over. On this basis, there would be likely to be greater loss of sunlight than shown which would be significant by reason of the importance of a lounge as a living area. Turning to the fallback position, the Council has confirmed that the dormers can be constructed as permitted development and parties have agreed that such works would be unsightly. Given the mapping plans and the Appellants clearly rationalised intentions, there is a greater than theoretical possibility that this fallback position would occur. However, the mapping plans do not demonstrate that the proposal would have the same effect on sunlight as the fallback position. Furthermore, I attach significant weight to the sunlight consideration for the reasons indicated which would outweigh any appearance benefit deriving from the fallback position.

6. In terms of ambient light, the gap between the proposed building and window would ensure satisfactory levels. Turning to outlook, there is a small gap between the lounge window and the side of the appeal property. A low wall marks the common boundary between the two properties. The additional first floor would result in the upward extension of the flank wall of the existing bungalow which would replace an existing pitched roof. However, the lounge window already faces directly onto the flank wall of the bungalow and the existing boundary treatment could be altered to result in a 2 metre boundary fence or wall under permitted development rights. Therefore outlook for the residents of this neighbouring property would not be significantly affected.
7. For all these reasons, there would be harm to the living conditions of residents of the neighbouring property by reason of the loss of sunlight in conflict with policies SDP 1 and H7 of the City of Southampton Local Plan Review (LPR) 2015 and CS13 of the Local Development Framework Core Strategy Review 2015. It has not been shown how this proposal would conflict with policy SDP 9 of the LPR.

Special Protection Area and Special Area of Conservation

8. The Solent coastline supports a number of Natura 2000 sites including the Solent and Southampton Water SPAs, designated principally for birds, and the Solent Maritime SAC, designated principally for habitats. Council research undertaken across South Hampshire has indicated that the current levels of recreational activity are having significant adverse effects on certain bird species for which sites are designated for.
9. Given the distance of the development from the SPAs and SAC, the development could have a significant effect on these designated sites in combination with further residential development coming forward in the future and their conservation objectives. In this regard, there would be recreational activity associated with residents which, as the Council's evidence confirms, does have a significant adverse effect on the designated sites' interest features, principally bird species, and their integrity.
10. The Appellant has indicated willingness to pay a financial contribution under the Solent Disturbance Mitigation Project. This would provide mitigation to offset the in-combination impacts on the significance of the SPAs and SAC. The mitigation would involve visitor management measures to address adverse recreational activity. This would not contravene the infrastructure criteria of Community Infrastructure Levy (CIL) Regulations 123(3) 2010 (as amended).

11. However, there is no means before me to secure the contribution and ensure that it is used for visitor management purposes. My decision has to be based on the documentation before me. In this regard, there is no binding undertaking before me to secure the contribution and its use. In respect of a planning condition, Planning Practice Guidance advises that a negatively worded condition to prohibit development authorised by a planning permission can be imposed until the entering into of a planning obligation requiring the payment towards the provision of supporting infrastructure. In this case, it could not be infrastructure but the visitor management provision. However, it states that such an approach is inappropriate in the majority of cases. In this case, no condition has been put before me. It is also not clear how such a condition could be worded to provide sufficient certainty that the contribution would be used by the relevant authorities for its intended mitigation purpose.
12. There are no alternative solutions before me which would have a lesser effect or avoid an adverse effect, on the integrity of the designated sites. A priority habitat or species would be adversely affected by the proposal for the reasons indicated. There are no imperative reasons of overriding public interest relating to public health, public safety or benefits of primary importance to the environment to set aside the adverse effect.
13. In summary, adopting the precautionary principle, the proposal in combination with other developments coming forward, would be likely to have a significant effect on European designated sites. Accordingly, the proposal would conflict with Policy CS 22 of the City of Southampton Local Development Framework Core Strategy Development Plan Document 2010, which amongst other matters, requires development to not adversely affect the integrity of international designations.

Other considerations

14. The proposal would boost housing supply with a net additional residential unit and would be sustainably constructed. The accommodation would be designed to be low-cost to people. However, this would not outweigh the identified harms, particularly that relating to an international ecological designation to which I attach substantial weight to. There are no other material considerations to outweigh the development plan conflict identified.

Conclusion

15. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathon Parsons

INSPECTOR