



Appeal Decision

Site visit made on 13 February 2018

by Chris Forrett BSc(Hons) DipTP MRTPI

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

Decision date: Friday 27th April 2018.

Appeal Ref: APP/D1780/W/17/3180972

Land Adjacent to 75-77 Lyon Street, Southampton SO14 0LY

- 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 Mr Satnam Ram against the decision of Southampton City Council.
 - The application Ref 17/00491/FUL, dated 27 March 2017, was refused by notice dated 26 June 2017.
 - The development proposed is the construction of 2x2Bed House.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council have described the proposed development as the 'erection of 2x 2-bed semi-detached houses with associated cycle/refuse storage (resubmission 16/02131/FUL)'. It is noted that the Appellant has also utilised this description on the appeal form. Given that this description reflects the proposed development, I have dealt with the appeal on this basis.

Main Issues

3. The main issues are:
 - (i) the effect of the development on the character and appearance of the area;
 - (ii) the effect of the development on highway safety;
 - (iii) the effect of the development on the Solent Coastline Special Protection Areas; and
 - (iv) whether the development would provide a suitable living environment for its future occupiers.

Reasons

Character and appearance

4. The appeal site is located on the north side of Lyon Street to the east of 75/77 Lyon Street which has been converted into flats. The northern side of the street is characterised by development which is on or close to the rear of the pavement. The section of the road where the site is located is predominantly formed of buildings which are around one and a half storeys in scale. The

southern side of the road opposite the site is dominated by a car park associated with the hospital.

5. The proposed development would result in a substantial building and would be much higher than the majority of development on this section of Lyon Street. Whilst 75/77 Lyon Street is a two storey building with a hipped roof, from the evidence before me, it is unclear whether the proposed building would be higher. Notwithstanding that, it is clear that it would be substantially higher than the adjoining development to the east. To that extent the development has failed to respond the characteristic of this section of Lyon Street.
6. The building would have two large gable ends fronting the road which would be a dominate feature in the streetscene. Whilst I acknowledge that 103 and 105 Lyon Street also have a twin gabled frontage, it is significant to note that these dwellings are much lower in height with the first floor accommodation partially within the roof space.
7. In respect of the fenestration of the proposed development, the front elevation has a very poor appearance with the ground and first floor windows being out of alignment and being differing sizes. This, together with the lack of detail of the submitted drawings, gives the appearance of a poor quality design.
8. Taking the above into account, the development would have a poor appearance and would not relate well to the surrounding development particularly given its overall height.
9. Turning to the provision of refuse storage, the proposed development relies on the storage of such bins within the public highway at the front of the proposed dwellings. The Appellant has indicated that a recess could be provided to the front of the dwellings to accommodate the storage of refuse bins, but details of this have not been provided to me. I therefore give this very little weight.
10. From my site visit I noted several properties in the vicinity had bins stored in prominent positions in the streetscene. To my mind, this has a negative impact on the character and appearance of the area. Whilst the proposed development would be similar to other properties in the street in this respect, it would nevertheless add to the overall harm to the area as a whole.
11. In relation to the Council's concern over the intensity of the development, it is noted that there is no specific objection to the development of the site for two dwellings. To that extent, I consider that the development would not be overly intensive or cramped, particularly given the overriding characteristic of this part of Lyon Street. However, that does not outweigh the harm I have already identified.
12. For the above reasons the development would give rise to significant harm to the character and appearance of the area contrary to Policy CS13 of the Local Development Framework Core Strategy Development Plan Document Partial Review (2015) (CS), Policies SDP1, SDP7 and SDP9 of the City of Southampton Local Plan Review (2015) (LP) and the Residential Design Guide (2006) (RDG) which amongst other matters seek to ensure that new development does not unacceptably affect the amenity of the city and its citizens, and is of a high quality design which respects the scale and proportions of existing buildings and integrates into the local community.

Highway Safety

13. As noted above, the location of the refuse storage for the development would be located on the public highway. To my mind, the permanent storage of refuse bins within the public highway would provide additional obstructions to pedestrians who utilise the pavement and would be detrimental to both pedestrian and highway safety.
14. At my site visit I saw that there were other properties in the street which also appeared to have their bins stored on the public highway. However, this does not justify an otherwise unacceptable proposal.
15. For the above reasons the development would have an unacceptable impact on highway and pedestrian safety as a result of the lack of refuse bin storage areas within the site contrary to Policy SDP1 of the LP and the RDG which amongst other matters seek to ensure that development does not unacceptably affect safety.

Special Protection Area

16. From the evidence before me the site lies within the 5.6 km zone of influence for the Special Protection Areas of the Solent Coastline. Policy CS 22 of the CS seeks to ensure that development does not have an unacceptable impact on such designations and that any such impact is avoided, mitigated or as a last resort compensated for. The Council have indicated that a financial sum of £174 per dwelling would be an appropriate level of contribution for the Solent Distribution Mitigation Project (SDMP). The need for mitigation is not disputed by the Appellant.
17. It is noted that the Appellant is willing to provide the necessary contribution towards the SDMP. However, no such legal agreement has been provided and therefore the development would be contrary to Policy CS 22 of the CS.
18. The Appellant has suggested that this could be controlled via a planning condition. However, the Government's Planning Practice Guidance (the PPG) advises that 'A negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. Ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed' (Paragraph: 010 Reference ID: 21a-010-20140306).
19. The PPG also goes on to note that in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence 'may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk'. However, I am not of the view that the scheme represents such development. Consequently, I consider that it is not appropriate in this case to secure the requirement for the Appellant to enter into a Section 106 agreement by a planning condition.
20. Given the above, and in accordance with paragraph 118 of the National Planning Policy Framework, I am obliged to take a precautionary approach. Consequently, in the absence of a suitable planning obligation, or any other

bespoke mitigation scheme, the appeal development would (in combination with other development) be likely to have a significant adverse effect on the Special Protection Areas of the Solent Coastline contrary to the EU Habitats Directive and Policy CS 22 of the CS.

Living conditions

21. Each dwelling would have two bedrooms, one from each dwelling would face Lyon Street with the other bedrooms to the rear of the properties. Both rear bedrooms would not have any windows and ventilation and natural light would be provided via rooflights at a high level. To my mind, the rooflights would make sufficient provision for daylight and sunlight into the bedrooms and given their height would not result in any overlooking potential.
22. In respect of outlook, this would be limited to views of the sky from these bedrooms. Whilst this is not an ideal situation, they would nevertheless provide for views out of the bedrooms. As such, the development would provide for an acceptable living environment for the occupiers of these bedrooms.
23. Turning to the location of the bin storage provision and the siting and resultant access to the dwellings at the rear of the pavement edge, neither of these factors have a significant impact on the living conditions of the future occupiers of the development.
24. For the above reasons, the proposal would provide for a suitable living environment for the future occupiers of the development in accordance with Policy SDP1 of the LP and the principles of the RDG which amongst other matters seek to ensure that new development does not unacceptably affect the health, safety and amenity of the city and its citizens and that access to natural light and outlook is provided for the intended occupiers of new habitable rooms.

Conclusion

25. Taking all matters into consideration I conclude that the appeal must be dismissed.

Chris Forrett

INSPECTOR