
Appeal Decision

Site visit made on 15 July 2019

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2019

Appeal Ref: APP/D1780/W/18/3217712
16 Garfield Road, Southampton SO19 4BZ

- 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 P. Mill (Purpose Property Management Limited) against the decision of Southampton City Council.
 - The application Ref 18/01782/FUL, dated 24 September 2018, was refused by notice dated 19 November 2018.
 - The development proposed is the change of use from three bedroom dwelling into 2 x flats (1 x one bedroom flat and 1 x three bedroom flat) with associated bin storage and parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on:
 - The living conditions of future occupants of the development
 - The character and appearance of the area
 - The habitats of European Protected Areas

Reasons

Living Conditions – Bedroom 3

3. The proposal would create two flats from the single dwelling. To the ground floor there is proposed a bedroom (Bedroom 3) which would be served only by a rooflight. This significantly limits the quality of outlook for future occupiers as there would just be a view upwards.
4. Furthermore, the first floor flat proposed would have a window in close proximity to the rooflight above this bedroom. Although an oblique angle, this arrangement would likely result in significant overlooking into Bedroom 3 which would reduce the privacy levels of this room substantially.
5. The appellant has sought to address this with obscure glazing for the rooflight and the use of blinds, for example. However, this would potentially reduce the light and diminish further the outlook for future occupants.

6. As such, this rooflight and its arrangement and position would result in significant harm to the future occupiers of the ground floor dwelling, particularly the use of Bedroom 3. The appellant has stated this could be used as a home office, but this would still be a room where it is reasonable to expect a decent quality of outlook and natural light.
7. It may be that the proposal would be compliant with building regulations, but this is a separate regime to planning which does not consider issues of outlook for example.
8. The appellant has also mentioned that another window could be inserted under permitted development, but I have no substantive details on this and there is no additional window indicated on the submitted plans.
9. There may be other flats with similar circumstances regarding overlooking or lack of privacy, but I have no details of these and what the occupants of these other flats feel about such issues. I have therefore given this matter little weight.

Living Conditions – Overlooking of garden

10. The rear windows of the first floor flat would also look out over the rear garden which would be used by occupants of the family size ground floor flat. However, these first floor windows are set back behind the recently built rear extension so that there is a considerable separation distance between these windows and the main garden area. On this basis, the extent of overlooking is not significantly different from overlooking which exists between houses in this street, from first floor windows across into neighbouring rear gardens. On this basis, I do not regard the overlooking from the first floor windows to harmfully detract from the quality of the external amenity space to be provided.

Living Conditions – Bedroom 1

11. The proposal includes the parking of vehicles to the front of the house, on an area of hardstanding. These parked vehicles would then be to the front of the ground floor front elevation window which would serve the proposed Bedroom 1. Whilst these vehicles would affect the outlook from this window, they would not dominate this view, especially as the hardstanding is on a lower level than the ground floor of the house.
12. There would be some disturbance from headlights and engine noise, but these would likely be infrequent occurrences and I have no substantive evidence before me that this would result in significant harm to the living conditions of those using this bedroom.

Living Conditions – Parking Access

13. With regards the parking spaces, amended plans have been provided with the appeal to show two spaces rather than three, with a possible further space by the existing garage. I recognise that three spaces would result in a cramped parking environment which would likely restrict access for all to the spaces. The Council has set out the requirement for three car parking spaces, although this is based on a maximum number as set out in the Parking Standards 'Supplementary Planning Document' (SPD).

14. The appellant has argued that this is an accessible location close to bus routes and a railway station. Therefore, I would accept that this site is in an area where there could be less reliance on private vehicles. I have no substantive evidence to the contrary. As such, I would regard two parking spaces as being suitable to provide for the two proposed flats. In doing so, the two parking spaces would have sufficient space to the sides for access by future occupiers.

Living Conditions - Conclusion

15. Overall, whilst I have not found harm to living conditions for most of the issues outlined above, I have found that the use of a rooflight only to serve a bedroom, which would also be overlooked at close distance by a first floor window, would significantly harm the living conditions of future occupants of the ground floor flat as proposed and would not represent a high standard of residential design.
16. The proposal, in regards to bedroom 3, is contrary to policies SDP1 and H7 of the Local Plan Review (amended 2015). These policies seek to, amongst other things, require acceptable amenities for citizens of the city and be of a high standard of design. The other matters raised above are in accordance with these policies and there is no conflict I have found with policies CS16 or SDP4.
17. The proposal with regards the matters relating to Bedroom 3 is also contrary to the Residential Design Guide Supplementary Planning Document (2006), particularly in regard to access to natural light, outlook and privacy standards.

Character and Appearance

18. The proposal does not include any significant alteration to the existing house externally. However, there is proposed a bin store near the front boundary. This would be a small structure and so would not be overly prominent in the street scene. Furthermore, the bin store would be preferable to bins being kept in the open to the front of the proposed flats, which could appear untidy.
19. I recognise that the bin store could be built elsewhere, but in the location proposed it would not have a harmful impact to the character and appearance of the area due to its indicated modest scale. The final details of the bin store could also be required via planning condition.
20. I acknowledge that the bin store is not located as suggested by section 9.4.1 of the Residential Design Guide Supplementary Planning Document (2006), but given its scale, adjacent to a parking area, I regard this aspect of the proposal acceptable in this circumstance.
21. There has been comment that this proposed arrangement could have health implications, but I have no detailed evidence of this or why a bin store in this location would have such an impact.
22. Furthermore, the proposal on this matter would accord with policies SDP1, SDP7 and SDP9 of the Local Plan Review (amended 2015) and policy CS13 of the Core Strategy (amended 2015). These policies require development to reflect the local streetscape and be of an appropriate mass and scale, amongst other things.

European Sites

23. The site is within 5.6km of the Solent coastline. The site is also within relatively close proximity to The New Forest. As such, it is necessary for me to consider any significant effects that the development may have on the Special Protection Areas (SPAs) Special Areas of Conservation (SACs) and Ramsar Sites of these sensitive locations. These designated sites are protected by the European Habitats Directive and, in turn, through domestic legislation in the Habitat Regulations.
24. The Solent coast, for example, is internationally important in providing mudflats, shingle and saltmarshes which are essential feeding and roosting habitats for overwintering birds. The area attracts 90,000 waders and more than 10% of the world's population of Brent Geese.
25. The Solent and New Forest also attracts substantial numbers of recreational visits every year which has the potential, particularly through dog walking, to disturb the birdlife, along with other impacts that could diminish these important habitats.
26. Additional pressures in this regard will arise as a result of new house building. Accordingly, I consider that occupation of the proposed development would be likely to increase recreational pressures on the SPAs and, either alone or in combination with other development in the area, would have a significant effect on them.
27. There is no formal strategy for contributions towards mitigation for the New Forest, but 5% of CIL contributions are to be used from new residential developments for this purpose.
28. I had had regard to Bird Aware Solent's Recreational Mitigation Strategy (SRMP). The SRMP has been prepared by a partnership of local authorities and conservation bodies including Natural England and has been the subject of public consultation. It seeks to provide a strategic mechanism to secure mitigation, in perpetuity, for the additional disturbance to habitats as a result of house building around the Solent.
29. The appellant has stated that they would be submitting a contribution which would meet the requirement set out in the Solent Recreation Mitigation Strategy. However, from the evidence before me this has not been done and there has not been the necessary contribution.
30. As such there is no contribution or implementable mechanism before me to secure any mitigation. There are also no alternative solutions before me which would have a lesser effect, or avoid an adverse effect, on the integrity of the designated sites. Consequently, a priority habitat or species would be affected by the proposal. Whilst the development would result in a net increase of one new dwelling towards local housing supply, I would not regard this as a sufficiently imperative reason of public interest to override the harm to the designated site.
31. Taking account of the precautionary principle contained within the European Habitat Regulations, I can only conclude that the proposal would have a significant adverse effect on the Solent European Sites and therefore I find this proposal to be in conflict with policy CS22 of the Council's adopted Core Strategy which requires that development does not adversely affect the

integrity of international habitat designations, and the necessary mitigation measures provided.

Other Matters

32. The proposal would provide for a three bedroom flat to the ground floor, which would be classed as family size. Therefore, there would be no net loss of a family dwelling. The proposal would provide a sufficient amount of bedrooms for a family to be future occupiers of the ground floor and so the proposal is not in conflict with policy CS16 of the Core Strategy with regards this issue.
33. I have had regard to the appellants' concerns regarding communication from the Council during the planning application process, but that does not affect my assessment of the planning merits of the scheme before me.

Conclusion

34. I have found that the proposal would not harm the character and appearance of the area or most of the living condition matters assessed above. However, my findings in respect of the living conditions of future occupiers with regards Bedroom 3 and the potential impact to European Protected Sites are significant reasons to dismiss this appeal.

S. Rennie

INSPECTOR