
Appeal Decision

Site visit made on 6 August 2019

by Elizabeth Hill BSc(Hons) BPhil MRTPI

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

Decision date: 27 August 2019

Appeal Ref: APP/D1780/W/19/3221104

87 Commercial Road, Southampton, SO15 1GH

- 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 Khaira against the decision of Southampton City Council.
 - The application Ref 18/00772/FUL, dated 27 April 2018, was refused by notice dated 25 July 2018.
 - The development proposed is the addition of 2 floors creating x29 beds HMO conversions.
-

Decision

1. The appeal is dismissed.

Preliminary matters

2. The address has been given as 87 Commercial Road but the appeal relates to property at 85-89 Commercial Road.
3. The description of the proposed development in the planning application does not adequately describe the development. It includes the conversion of part of the first floor of these properties as well as the addition of 2 further floors of student accommodation.

Main Issues

4. The main issues in this case are:
 - a) The impact of the development on the living conditions of future occupiers, in terms of room size, communal/ amenity space, outlook and provision for cycle and refuse bin storage;
 - b) The impact on the character and appearance of the area;
 - c) Whether the scheme would provide for sustainable development and greenspace; and,
 - d) Whether the scheme would make provision for infrastructure to address its direct impacts.

Reasons

Living conditions

5. The proposed development would accommodate 29 students. The room sizes vary but the appellant says that they would meet the minimum standard of

- 10sqm set Council's Guidance on Standards for Houses in Multiple Occupation. However, the communal space provided would not be sufficient to give the occupiers adequate space to relax and associate with fellow students and its northerly aspect would make it an unattractive space for such a use. Whilst there are parks nearby and the higher education institutions have sports and recreation facilities, no outside space has been provided on the site and this area is the only communal recreation area. Its poor size and quality would not be adequate to compensate for the lack of outside space and the poor northerly outlook of some of the individual rooms. The generally cramped nature of the proposal represents an overdevelopment of the site.
6. The occupiers would also be dependent on communal cooking and clothes washing facilities. The Design and Access Statement says that there would be a kitchen, 4 kitchenettes and 3 laundry rooms provided. It is unlikely that this would provide sufficient space and facilities to deal with the needs of the occupiers for cooking and laundry. Two of the kitchenettes would have no windows, which could result in odours not being able to escape. However, ventilation could be provided by a ventilation system and secured through a suitably-worded condition, although the lack of natural light in these rooms provide a poor environment in which to spend time cooking.
 7. It is intended that the flats would be occupied by students, who would be there for the majority of the year. Their Council Tax status is not relevant to the appeal. The appellant says that the proposed use could be supervised by the staff of the convenience store, although he does not believe that 24 hour supervision would not be necessary. Nevertheless, it is usual in student accommodation where boisterous behaviour and noise can cause annoyance to neighbouring occupiers, including those within the accommodation itself, and staff in the shop would not be there on a 24-hour basis.
 8. In addition, the application site does not include the access to the refuse and cycle parking area and the information provided does not show that the appellant has control over this area. Although the access is currently open to vehicles and cycles, this might not continue to be the case and therefore access to this area could not be guaranteed for the lifetime of the development. In any event, the amount of cycle storage is less than would be required for such a development, even taking into account 50% provision for student accommodation.
 9. Therefore, I conclude that the proposed development would be harmful to the living conditions of future occupiers, in terms of room size, communal/ amenity space, outlook and adequate provision for cycle and refuse bin storage, contrary to the saved policies SDP1(i), SPD5(iii) and H7(vi) of the Amended Local Plan Review (LP); policies CS5 and CS19 of the Local Development Framework Core Strategy Development Plan Document (CS) supported by the Residential Design Guide: Houses in Multiple Occupation Supplementary Planning Document (SPD); and the principles for well-designed development set out in the National Planning Policy Framework (NPPF), paragraph 127. All of these policies seek to provide high quality living environments for existing and future users.

Character and appearance

10. The site lies on Commercial Road, which lies within the Station Quarter, and there are mainly taller buildings on either side and opposite the proposal. The

block of which the proposal forms part is anomalous within the area, both in terms of its scale and its appearance. The new-build part of the development would be set back from the frontage and be of a lightweight construction. This would reduce the bulk and mass in views along Commercial Road and the materials could be controlled through a suitably-worded condition. However, the new-build element would not coordinate well with the design of the lower storeys in terms of its appearance, including the fenestration, and would fail to relate successfully to the rest of the existing block. Therefore, it would not provide the high quality environment required in the Station Quarter. Whilst the development would have some sustainable features including use of greywater, rainwater harvesting, solar panels and building control systems, this would not compensate for the poor design of its exterior.

11. Therefore, I conclude that the proposed development would be harmful to the character and appearance of the area, contrary to saved policy SPD1(i) of the LP, policy CS13 of the CS and policies AP16, AP20 and AP21 of the City Centre Action Plan, which seek to ensure a high quality of design in the Station Quarter, and the principles for well-designed development set out in the Council's Residential Design Guide SPD and the NPPF, paragraph 127.

Sustainability/ green space

12. The proposed development would incorporate some sustainable green features but in order to compensate for the lack of outside space within the development site, it would need to be provided as a green roof which would be considerable weight on the roof structure. The appellant has said that the construction would be lightweight and has not provided any structural details to show how the green roof could be supported. Without the structural information, there is no certainty that the green roof could be provided and without it the proposal would be contrary to policies which seek to ensure that an improvement on green space would be achieved.
13. Therefore, I conclude that the proposed development would not provide for sustainable development and greenspace and would be contrary to policy CS20 of the CS and policy AP16 of the City Centre Action Plan.

Infrastructure

14. The appellant has not provided a student housing needs assessment as required by saved policy H13 of the LP. Instead the appellant has made assertions, based on a document which has not been provided that only 7% of students live in private halls and more would like to do so, releasing about 6 family houses. Whilst this might be the case, a proper student housing needs assessment should have accompanied the application. The lack of a student needs assessment, contrary to policy H13, and any agreement to secure student tenure of the development has implications for the provision of infrastructure through planning obligations.
15. Without the agreement in place, the proposal triggers the need for affordable housing to be provided. The Council has adopted a 35% target on sites of 15 or more. This could have been provided by condition or planning obligation. However, it is not the appellant's intention to provide affordable housing as he wishes to provide student accommodation. Either the agreement to secure the student tenure of the building should have provided or the affordable housing issue should have been addressed. Without either of these documents this

remains an unresolved issue and the proposal would be contrary to policy CS15 of the CS, which seeks to provide affordable housing to assist with the City's housing needs.

16. The Council also expects a planning obligation for a financial contribution to site specific transport improvements in the vicinity of the site and also to ensure that a highway condition survey is submitted to ensure that any damage ensuing from the development is paid for by the developer. These would be necessary to ensure that the transport impacts of the proposal are properly mitigated. The appellant has said that this could be a condition but the improvements would require the payment of money and it is also possible that the highway condition survey could also eventually do so. This could only be achieved by a planning obligation, not a condition. As the planning obligation has not been submitted prior to the appeal it cannot be taken into account. Therefore, the proposed development would be harmful in not mitigating the impacts on the transport and highway system, contrary to saved policy SDP4 of the LP, Policies CS18 and CS25 of the CS and the adopted Supplementary Planning Guidance on Planning Obligations, as amended. Amongst other things, these seek to ensure that the impacts of development on the transport and highway system will be mitigated.
17. The Council has requested planning obligations to secure a student intake management plan to prevent disruption and harm to the safety and convenience of the users of the adjoining highways. The adjoining access road to the site, which is not included in the application, has only a limited number of car park spaces and there are no parking details indicated on the application. Therefore, there would need to be active management of the changeover of students, so that there is no harmful impact on local roads, including Commercial Road. Since it would involve the use of land off the site, this needed to have been handled by planning obligation, which should have been submitted prior to the determination of the appeal in order to be taken into account. As such, the proposal is contrary to saved policy SDP1 of the LP which seeks, amongst other things, to protect against disruption of transport and the amenity and safety of local residents.
18. The Council has asked for a planning obligation to indicate how the accommodation would be managed on a 24-hour basis. The appellant has said that this would not be necessary but, as set out above, I have disagreed with him. This matter would also need to be covered by a planning obligation, since it would need to cover the management of such matters as noise and behaviour in the interests of other occupiers. Without the obligation in place, the proposal would be contrary to saved policy SDP1 of the LP, which seeks to protect the amenity of local residents.
19. The Council also requires a planning obligation to set out in a Carbon Management Plan how carbon neutrality could be achieved or how remaining carbon emissions from the development could be mitigated, including contributions to the City's carbon offset fund. This would be necessary under policy CS20 of the CS to reduce carbon dioxide emissions in the city. The appellant has not submitted such an obligation and therefore the proposal would be contrary to this policy and also the Planning Obligations SPD.
20. The appellant has said that they will pay towards the Solent Disturbance Mitigation Project (SDMP). This is designed to mitigate the impact from the

recreational demands of the occupiers of new housing around the Solent, which contains 3 Special Protection Areas (SPAs) for waders and wildfowl. The Council has a rate based on the number of bedrooms provided in each dwelling, unless the developer provides alternative mitigation. In this case, the planning obligation needed to be submitted prior to the appeal being determined if it was to be taken into account. I consider that the planning obligation is necessary to protect internationally designated sites (the SPAs). As it has not been provided, the proposed development would be contrary to policy CS22 of the CS and the Conservation of Habitats and Species Regulations 2017, which seek to protect habitats.

21. The Council has stated that there should have been a planning obligation to ensure that the development would be car free with the developer to explain to occupiers that they would not be eligible for parking permits within the Council's Controlled Parking Zones. This would be necessary to ensure that parking was not provided in areas where there is good accessibility by more sustainable methods of transport, avoiding further congestion in central areas. As this has not been provided, the development would not be in accordance with saved policy H13 of the LP, which seeks to ensure that parking is controlled within student development. It could not be achieved through a condition, as suggested by the appellant, as conditions are largely unenforceable for such matters, but needed to be implemented through a planning obligation.
22. The appellant has not submitted full details of the proposed refuse management arrangements, including access, and this needed to have been set out in a Refuse Management Plan. As already explained the application does not cover the access to the refuse area and it appears that the appellant does not have control over it. A planning obligation would be necessary to ensure that adequate refuse arrangements were made. Similarly, few details have been provided of the CCTV and security arrangements for the refuse and cycle store. The appellant says that occupiers would not need to leave the building to access these facilities but access would need to be over land which does not form part of the application. In order to comply with saved policy SPD10 of the LP and policy CS19 of the CS, which require safe and secure environments, including cycle parking, an obligation would be needed to ensure that these elements are provided to a satisfactory standard.
23. Therefore, I conclude that the proposed development would not make proper provision for infrastructure nor address any of its direct impacts. This would be contrary to the specific policies mentioned in this section and policy CS25 of the CS and the Planning Obligations SPD, which seek to ensure the mitigation of any harmful effects of development.

Other matters

24. The appellant has said that the Council has not dealt with the application in a positive way and sought resolution of the issues with the development. However, that cannot influence the outcome of the appeal, which is determined on the submitted evidence.

Conclusions

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

E A Hill

INSPECTOR