
Appeal Decision

Site visit made on 23 July 2019

by Roy Curnow MA BSC(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th November 2019

Appeal Ref: APP/D1780/W/19/3222397

25 The Avenue, Southampton S017 1XL

- 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 H Mills against the decision of Southampton City Council.
 - The application Ref 18/01647/FUL, dated 31 August 2018, was refused by notice dated 24 October 2018.
 - The development proposed is extension of office parking area.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The parking area had been formed and was in use at the time of my site visit. Therefore, I am considering this appeal retrospectively.
3. There is a slight difference between the description of development used in the application form and that used in the Council's decision notice. I have used that from the former.

Main Issues

4. The main issues are:
 - whether the development preserves or enhances the character or appearance of The Avenue Conservation Area (TACA); and
 - the effect of the development on the living conditions of the occupants of 25 The Avenue, having particular regard to garden space, noise and disturbance, light and outlook.

Reasons

Conservation Area

5. The TACA is centred on the The Avenue, a busy road that runs north to south through this part of the city. It is a distinctive road in the vicinity of the appeal site, divided as it is by a wide belt of public open space on which there are a number of impressive trees. The side of the road on which the appeal site lies is flanked by 'villas' that face onto this road. In the main, the boundary of the TACA on the east side of the road runs along the rear boundaries of its flanking properties.

6. Numbers 25 and 26 The Avenue are a pair of semi-detached properties that, although not matching, share several features including large, two-storey bay windows and the use of a yellow brick. The Officer's report states that the appeal property is locally listed. Although I have not been provided with details of the local listing, nonetheless the pair of buildings contribute to the character and appearance of the TACA.
7. A number of minor roads meet The Avenue on its east side, dividing buildings here into distinct groups. The group in which Nos 25 and 26 are situated lies between Padwell Road and Mordaunt Road, to the south. No 26 is situated on the corner of The Avenue and Padwell Road. In common with a number of others along this side of The Avenue, it is in an office use. Its rear garden has been set over to car parking, accessed from Padwell Road.
8. The boundary wall between this car park and land to the rear of No 25 has largely been removed. Save for a small area immediately to its rear, what was once the garden to No 25 is now covered in gravel and used for parking in association with the office use at No 26. It appears that this arose as a result of the terms of an amenity notice that was served after the land became overgrown.
9. I saw that several properties along the east side of The Avenue in the vicinity of the appeal site had parking to their rears. Where a road provides access to the rear of properties in this part of The Avenue it allows for the creation of independently accessed parking areas; even for those in the middle of groups of buildings. However, as there is no access road to the rear of the group that contains Nos 25 and 26, direct road access is only possible for the end properties. Vehicular access to the rears of properties in the middle would have to be via these end properties.
10. Notwithstanding that the ownership of the appeal site was severed from that of No 25, the historic layout of the properties in this group was preserved. The appellant states that the removal of the wall did not require permission, but its removal was necessitated by the terms of the amenity notice that was served to address the overgrown nature of the land. However, it seems to me, from the evidence of the photograph attached to the appellant's statement, that this might have been achieved without the removal of the entire wall.
11. I observed that the parking areas that had been created to the rears of properties on The Avenue close to the appeal site served the property on which they were formed. The boundaries between them were well-defined by walls. This is not the case in the appeal proposal, which has introduced the concept of parking for one property being provided on land to the rear of another through the removal of a boundary wall.
12. The way the car park has been extended to the rear of No 25 is quite clearly seen from Padwell Road. The amalgamation of the two original garden areas and the subsequent provision of a further line of parked vehicles detracts from the character and appearance of the TACA. This is contrary to the terms of the statutory test in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which is a matter of considerable importance and weight.
13. This harm is 'less than substantial', in the words of paragraph 196 of the National Planning Policy Framework (the Framework). This paragraph then requires decision-makers to weigh this harm against any public benefits. Here,

it is suggested that the proposed parking area would result in a reduction in pressure for on-highway parking from office workers. I agree that this would be a public benefit, but it would not outweigh the harm that I have identified.

14. On this main issue, I find that the development fails the statutory test to preserve or enhance the character or appearance of TACA, which is reflected in 'saved' Policies HE1(i) and HE2(i) of the City of Southampton Local Plan Review, March 2006, (Local Plan) and are amongst the terms of Policies CS13 and CS14 of the Council's Core Strategy Development Plan Document, March 2015, (Core Strategy), and the Framework. The harm to the locally listed buildings would be contrary to the terms of Local Plan Policy HE4(i) and (iv). The terms of Local Plan Policy SDP1(i) relate to the health and safety of the city's residents and developments contributing to a complimentary mix of uses and are not relevant to this issue.

Living Conditions

15. The car park sits immediately to the rear of No 25. Its use, including the manoeuvring of vehicles and the slamming of car doors, could happen at any time of the day or night. It is likely that the use of the area as a car park results in an adverse effect on the living conditions of its occupants through noise and disturbance. This would not be mitigated by the wall and fence that separate the two. That there were no objections to the scheme from the occupants of No 25 does not lead me to reach a different conclusion.
16. There would be no harm arising from car headlights, however. The fence and wall would preclude them from shining directly into the ground floor window at the rear of No 25. Furthermore, those on its first floor are set too high to be directly affected in this way.
17. From the evidence before me, the separation of No 25 from the majority of its former garden happened some years ago. As such, the proposal would not result in its occupants losing the use of the garden. Their outlook and light would be unaffected by the recently erected wall, as this is of much the same height as the adjacent fence that was previously erected and remains between the appeal site and the rear of No 25.
18. In conclusion on this issue, although I do not find that the scheme would harm the living conditions of the occupants through the loss of light, outlook and garden area I do find that the living conditions of the occupants of No 25 would be adversely affected by reason of noise and disturbance arising from the use of the proposed car park. Although there would be no harm to the living conditions of the occupants of No 25 through the effects of car lights, the loss of garden area or adverse effects on light and outlook, this does not outweigh the harm that I have identified in terms of noise and disturbance from vehicle movements.
19. Therefore, the proposed development unacceptably affects the living conditions of the occupants of No 25 contrary to 'saved' Policy SP1(i) of the City of Southampton Local Plan Review, Adopted Version 2nd Revision, 2015 and the provisions in this regard in the National Planning Policy Framework.
20. I do not find that it is contrary to the terms of Core Strategy Policy CS13 or LP Policy H7, that relate to design issues, rather than living conditions. As paragraph 2.2.1 of the Council's Residential Design Guide, September 2006,

refers specifically to new housing development, I do not find it to be relevant here.

Other Matters

21. I agree that the question of a precedent being set is immaterial to this proposal. Each proposal has to be assessed on its own merits. I give little weight to the report that the Conservation Officer did not object to a proposal on the site in 2016, nor was there an objection on living conditions grounds. Both are the case in this appeal, and I have assessed it on this basis.

Conclusion

22. For the above reasons, and having taken all other matters into account, the appeal should be dismissed.

Roy Curnow

INSPECTOR