
Appeal Decisions

Site visit made on 18 November 2019

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 08 January 2020

Appeal Ref: APP/D1780/W/19/3236815

15-19 Suffolk Avenue, Southampton SO15 5EF

- 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 Andrew Vagg, Dart Assets Limited against the decision of Southampton City Council.
 - The application Ref 19/00493/FUL, dated 13 March 2019, was refused by notice dated 5 June 2019.
 - The development proposed is the alteration of existing flat block with the addition of 2x2 bed flats on new 3rd floor. New external staircase. Enclosed refuse and cycle storage at rear. Additional 3 parking spaces.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. I have been appointed to determine two appeals at this site. The other appeal reference is APP/D1780/W/19/3236814. I have considered each proposal on its individual planning merits.
3. Although not forming part of the Council's reasons for refusal the appellant has submitted to the Council a 'Habitats Mitigation Contribution Agreement', dated 25 April 2019, towards the cost of measures to mitigate the impact of the proposed development on the Solent Special Protection Areas (SPAs). I return to this matter later.

Main Issues

4. The main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - Whether the proposal would result in the loss of a family home at 27 Suffolk Avenue with particular regard to outside amenity space;
 - Whether adequate living conditions would be provided for the existing occupiers of the flats and future occupiers of the proposed flats at 15-19 Suffolk Avenue in respect of outside amenity space;
 - Whether adequate living conditions would be provided for the existing occupiers the ground floor flats at 15-19 Suffolk Avenue and 21 Suffolk Avenue in respect of outlook and privacy; and

- Whether the arrangements for the collection of refuse would be acceptable.

Reasons

The site and proposed development

5. The appeal site, as shown on the 'proposal site plan', includes land that I saw on my site visit was fenced off from the remainder of the site. I was afforded access to this land and saw that it was largely overgrown, with the remnants of some fencing and a shed. I also saw that the land was fenced off from the rear gardens of 23, 25 and 27 Suffolk Avenue.
6. The proposed development is the erection of a third storey on top of the existing flat roofed block of flats to form two two-bedroom flats. In addition, notwithstanding the description of development in the header above, the proposal would include the demolition of the existing garage block in order to enable the erection of the enclosed refuse and cycle store. In addition, as shown on the 'proposal site plan', an outside private amenity space for the occupiers of the existing block of flats, an enlarged balcony for the existing rear first floor flat and allocated parking spaces, two of which would be within the front garden of the existing block of flats, are also proposed.
7. The 'proposal site plan' also includes three two-bedroom houses which do not form part of this planning application. They form part of another planning application, the subject of the appeal referred to above in paragraph 2.

Character and appearance

8. The area is characterised by mostly pairs of semi-detached and short terraced rows of two-storey properties. In this context the two-storey flat roofed block of flats is an exception to the prevailing built form within the street-scene.
9. The proposed third storey, which would incorporate a flat roof design, would be set back from the front elevation of the building. Moreover, the resultant building would be no higher than the roof ridge heights of either of the neighbouring properties. However, the proposal differs from the gable and hipped roof design of the adjacent buildings and in combination with the overall scale and bulk of the flat roof extension would be prominent within the street-scene and overwhelm the adjacent properties. The proposal would appear significantly at odds with the prevailing design of the existing built form in the vicinity of the site. For these reasons, therefore, the proposed development would be significantly harmful to the character and appearance of the area.
10. Consequently, in this regard, the proposal would conflict with Policy SDP7 of the Local Plan Review - Adopted Version Second Revision (2015) (LPR); Policy CS13 of the Southampton City Council Adopted Core Strategy (March 2015 amended) (CS), and the Residential Design Guide 2006 Supplementary Planning Document (SPD) which, amongst other things, set out to ensure that proposals respect the character, scale and proportion of existing buildings. The Council has referred to Policy SDP1 of the LPR in their refusal notice. However, this policy is not directly relevant to character and appearance issues.

Loss of family home

11. The Council's refusal notice refers to the proposal being contrary to the aims of Policy CS16 of the CS in resisting the loss of family homes. This is in regard to the Council's assessment that the development would reduce the outside amenity space (rear garden area) of No 27 to roughly 55.5 square metres, thus below the Council's minimum standard of 70 square metres for a semi-detached dwelling.
12. I acknowledge the Council state that at the time they visited the site the garden of No 27 and the gardens of the neighbouring properties, Nos 23 and 25, extended to their full original length. However, as noted above in paragraph 5, I saw at the time of my site visit the gardens of all these properties were clearly severed from the appeal site as shown on the submitted proposal site plan.
13. Therefore, taking into account that the rear garden area of No 27 is already below the Council's minimum standard, I conclude that the proposed development would not result in the loss of a family home. Accordingly, it would not conflict with Policy CS16 of the CS which, amongst other things, seeks to resist the loss of family homes.

Living Conditions – outside amenity space

14. The development would include an enlarged balcony for the existing rear first floor flat. Balconies are also proposed for the two new flats at second floor level. The Council calculate that the total outside amenity space for the occupiers of the existing and proposed flats, to include the space afforded by all existing and proposed balconies and the area to the rear of the block of flats, would be approximately 72 square metres. Based on the evidence before me I have no reason to disagree with the Councils' calculation.
15. I acknowledge that other than the two first floor balconies the only outside amenity space serving the occupiers of the existing block of flats is the front garden area and the rear gravelled informal car parking area. However, much of the front garden area would be lost to the two proposed car parking spaces and the rear gravelled area would be fenced off for car parking, the communal bin store and cycle storage.
16. Part 4 of the SPD provides guidance on the provision of outside amenity space and refers to Part 2 of the SPD for specific guidance on minimum garden sizes within suburban areas of Southampton. It states that, in the case of a flat, a minimum of 20 square metres should be provided. Thus, taking into account that there would be a total of 6 flats, this would amount to a total requirement of 120 square metres. Notwithstanding the provision of balconies at first and second floor level, the proposal would, nevertheless, be significantly deficient in terms of providing an appropriate amount of outside amenity space for the occupiers of the existing and proposed flats.
17. For the reasons outlined above, I conclude that adequate living conditions for the existing occupiers of the flats and future occupiers of the proposed flats at Nos 15-19 would not be provided for in respect of outside amenity space. Consequently, the proposed development would not accord with Policy SDP1(i) of the LPR; Policy CS13 of the CS; Parts 2 and 4 of the SPD, and paragraphs 127 and 130 of the National Planning Policy Framework (the Framework)

which, amongst other things, requires that new development provides an appropriate amount of outside amenity space and takes account of local design standards.

18. The appellant has drawn my attention to another new build block of flats 50 metres away from the appeal site and indicates that this is of far greater density in terms of the number of units within the single plot, therefore the proposed garden would be sufficient in comparison to this development. However, I am not aware of the full circumstances which led to this development being built or any details of the outside amenity space. In any event, I have determined the appeal proposal on its individual planning merits and the existence of this other development does not alter or outweigh my overall conclusion on this main issue.

Living conditions – outlook and privacy

19. The existing outlook from the rear elevation habitable room windows of the ground floor flat at Nos 15-19 is towards the gravelled informal car parking area and existing garage block. The boundary structure forming the proposed outside private amenity space would be positioned approximately 2.6 metres from, and extend across the full width of, the rear elevation of the ground floor flat. I have no specific details of the proposed boundary structure before me. However, the appellant states the outside private amenity space would be a “*fenced off lawn area*”. Therefore, any fence would likely be a tall structure in order to afford a degree of privacy for the occupiers of the flats using the outside space. Taking into account the separation distance, the proposed boundary structure would be overbearing upon the outlook from the rear elevation habitable room windows of the existing ground floor flat.
20. The appellant states the proposal includes “*defensive planting positioned directly in front of any habitable windows*” to ensure suitable privacy is achieved. However, any defensive planting would need to be kept low level in order to avoid blocking light to the windows of habitable rooms and to avoid being overbearing upon the outlook from the windows. Taking into account the location of the proposed outside private amenity space there would therefore be a loss of privacy for the occupiers of the existing ground floor flat as a result of its use by the occupiers of the other existing flats.
21. The existing outlook from the front elevation habitable room windows of the ground floor flat at Nos 15-19 is towards the front garden. Notwithstanding that one of the proposed car parking spaces would be allocated to the ground floor flat at the front of the building, as a result of the proposed two car parking spaces positioned close to the front elevation of the building there would be a loss of privacy to the occupiers of the existing ground floor flat and a loss of outlook from the front elevation habitable room windows. Defensive planting is also proposed tight to, and across the full width, of the front elevation of the building. However, any defensive planting, for the same reason as set out above would not lessen the loss of outlook or loss of privacy.
22. The existing outlook from the ground floor side elevation habitable room windows of the ground floor flat within 21 Suffolk Avenue is towards the existing uncontrolled vehicular access route to the rear parking area and garage block. The appellant states that the garage area is commercially rented and therefore vehicular visits can be made any time during the day and night. However, notwithstanding this and the proposed security gate to control access

- to the rear car park, the proposed development would increase the number of residential units which would have the potential to increase the number of vehicles entering and leaving the rear parking area.
23. Taking into the account the position of the access route, which is adjacent to the side elevation windows of No 21, the increased vehicular and associated pedestrian traffic as a result of the proposal would have an unacceptable impact upon the outlook from the ground floor side elevation habitable room windows and would result in a loss of privacy for the existing occupiers. The appellant contends that the habitable room windows could be filmed/frosted for privacy, however this would unacceptably restrict the outlook from the windows.
24. For the reasons outlined above, I conclude that the development would have a significantly harmful effect upon the living conditions of the existing occupiers of the ground floor flats at Nos 15-19 and No 21 in respect of outlook and privacy.
25. Consequently, the proposed development would not accord with Policies SDP1(i) and H7 of the LPR; Policy CS13 of the CS; Part 2 of the SPD, and Paragraph 127 of the Framework which, amongst other things, seek to ensure that proposals avoid harmful effect upon the living conditions of the occupiers of neighbouring development.
26. In respect of this main issue the appellant has also made reference to the same development 50 metres away from the site as referred to above. He says the layout of the new build block of flats is very similar to that proposed and it shows no privacy for a ground floor flat which is adjacent to the communal garden area. However, I am not aware of the full circumstances which led to this development being built. In any event, I have determined the appeal proposal on its individual planning merits and the existence of this other development does not alter or outweigh my overall conclusion on this main issue.

Collection of refuse

27. The proposed development includes a communal bin store positioned in the rear corner of the site behind the existing block of flats, in roughly the same location as the existing garage block. The appellant says that on bin collection day temporary on street collection located at the front of the site would be used.
28. However, such an arrangement would require future occupiers of the proposed development to move their bins approximately 44 metres from the communal bin store to the street for collection by the waste collection authority. Part 9 of the SPD is clear that waste storage areas should be sited to enable residents to conveniently manoeuvre waste containers to the collection point, in this case the street. Taking into account the distance between the proposed communal bin store and the street, I do not consider the location of the proposed communal bin store is sited to enable residents to conveniently manoeuvre waste containers to the street.
29. Therefore, the waste collection authority would need to access the site to collect waste from the communal bin store. Paragraph 9.3.4 of Part 9 of the SPD states where the communal bin store is not within 10 metres of the

highway appropriate hard-surfaced access and manoeuvring space must be provided. It goes on to state the vehicular access should be a minimum of 4.1 metres wide for the first 7 metres length of the access and a tracking diagram should be provided to demonstrate that there is adequate manoeuvring space for refuse vehicles to turn.

30. The 'proposal site plan' shows a gated 3 metres wide vehicular access to the rear of the site, thus less than the required minimum of 4.1 metres. Moreover, I have no evidence before me, in the form of a tracking diagram, to demonstrate that refuse vehicles would be able to safely manoeuvre and turn within the site.
31. For the reasons outlined above, I find that the proposal fails to demonstrate that refuse collection vehicles can safely manoeuvre within the site to allow the refuse collection authority to collect waste from the communal bin store. Consequently, the proposed development would not accord with Policies SDP1(i), SDP4 and TI2 of the LPR; Policy CS13 of the CS, as supported by Part 9 of the SPD which, amongst other things, seeks to ensure that refuse collection vehicles can gain safe access to waste collection points. The Council has referred to Policy CS19 of the CS in their refusal notice. However, this policy relates to car and cycle parking and therefore is not directly relevant to this main issue.

Other Matters

32. The site is located within 5.6 km of the collectively known European designated areas Solent SPAs/Ramsar sites. As noted above the appellant has submitted to the Council a 'Habitats Mitigation Contribution Agreement'. Notwithstanding the existence of the agreement, there would still be a requirement to carry out an Appropriate Assessment. However, regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 indicates the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to approve planning permission. Given my overall conclusion on the main issues it has not been necessary for me to pursue this matter any further in this instance.
33. The appellant states that should nitrate neutrality be required by the Council then there is potential to achieve this on the site by package waste sewage treatment and re-circulated grey water. Whilst I have little doubt, in principle, the development could deliver a scheme to achieve nitrate neutrality the application is not supported with any other information or assessment of the effectiveness of such a scheme. However, in this instance, this matter is not in itself determinative to the outcome of the appeal.
34. The appellant points out that Southampton City Council currently count all student bedroom spaces created as dwellings within their 3-year supply and the proposal creates two new dwellings which are both two-bedroom flats. Notwithstanding this the Council's stated position is that they currently have a 5-year supply of housing land and this has not been disputed by the appellant. Consequently, the presumption in favour of sustainable development contained in paragraph 11(d) of the Framework is not engaged.

Conclusion

35. In conclusion, whilst the proposal would not result in the loss of a family home, this would not overcome the significant harm that would be caused to the character and appearance of the area and the significant harm that would be caused to the living conditions of the existing occupiers of the ground floor flats at Nos 15-19 and No 21 in respect of outlook and privacy. I have also found that adequate living conditions for the existing occupiers of the flats and future occupiers of the proposed flats at Nos 15-19 would not be provided for in respect of outside amenity space. Additionally, I find the proposal fails to demonstrate that refuse collection vehicles can safely manoeuvre within the site to allow the collection of refuse. Therefore, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Andrew Bremford

INSPECTOR