

Appeal Decision

Site visit made on 24 February 2020

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2020

Appeal Ref: APP/D1780/W/19/3241409

36 Dell Road, Southampton SO18 1QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Ms Alison Davanzo, Harriton Homes Ltd against the decision of Southampton City Council.
 - The application Ref 19/01480/MMA, dated 27 August 2019, was refused by notice dated 25 October 2019.
 - The application sought planning permission for 'Minor material amendment sought to planning permission ref 16/02022/MMA to allow alterations to landscaping and means of site enclosure. The application includes details to satisfy condition 5 (details of building materials to be used) of planning permission 16/02022/MMA (amended description)' without complying with a condition attached to planning permission Ref 18/01159/MMA, dated 6 November 2018.
 - The condition in dispute is No 19 (Upper rear garden access details) which states that: Notwithstanding the plans hereby approved further details of the materials and design proposed for the construction of the spiral staircase and method of achieving privacy for neighbouring properties (34 and 38 Dell Road) shall be submitted to and approved in writing by the local planning authority prior to first occupation of the development hereby approved. Once approved the development shall be carried out in accordance with the approved details and privacy screens shall be maintained in perpetuity.
 - The reason given for the condition is: To protect neighbouring privacy.
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Decision

1. The appeal is allowed and planning permission is granted for Minor material amendment sought to planning permission ref 18/01159/MMA to change spiral staircase to L-shape angular stairs at 36 Dell Road, Southampton SO18 1QS in accordance with the application Ref 19/01480/MMA, made on 27 August 2019, without complying with conditions No 19 and Nos 1, 2, 3, 4, 5, 9, 10, 14, 17 and 18 set out in planning permission Ref 18/01159/MMA granted on 6 November 2018 by the Council, but otherwise subject to the conditions listed in the schedule to this decision notice.

Procedural Matters

2. The description of development in the heading above has been taken from the planning application form. However, the appeal form includes different wording which reflects the description in the Council's decision notice. I have used this revised description as it better captures the scope of the proposal.

Background and main issues

3. Planning permission was originally granted under Ref 15/01621/FUL for the erection of 2 x four bedroom houses at the appeal site. That permission was subsequently amended through planning applications Ref 16/02022/MMA and Ref 18/01159/MMA. This appeal proposal is to amend condition 19 of the latest planning permission, Ref 18/01159/MMA, changing the reference in the condition from a spiral staircase to L-shape angular stairs.
4. The main issue is the effect of amending condition 19 on the living conditions of adjoining occupiers in 38 Dell Road.

Reasons

5. The appeal site and surrounding area are characterised by steeply sloping land. Rear gardens of properties on and surrounding the site are therefore generally set on higher ground, with stairs needed to access the rear gardens on the site.
6. The application form confirms that the development of the two dwellings has been completed. I observed on my site visit that this appeared to be the case, that the development was occupied and that L-shape angular stairs have been erected for one of the two dwellings, 36A Dell Road, rather than the spiral staircase referred to in condition 19 of permission Ref 18/01159/MMA. The plans submitted with the appeal show the L-shape staircase and some boundary treatment between the site and No 38. That includes a 1.8 metre high fence and trellis, on top of the retaining wall on the shared boundary, which would provide some screening to No 38.
7. Some additional boundary treatment/privacy screen not shown on the submitted plans has recently been erected on the site. Without that, the location of the L-shape stairs means that there would be a view from the higher part of the main staircase and the elevated landing towards No 38. This would include direct views to the ground- and first-floor windows which serve habitable rooms in that property. However, the upper steps of a spiral staircase – some of which would have faced towards No 38 – would have afforded similar views. The submitted plans also show that the previously approved spiral staircase would have had an elevated landing in a similar position, height and size as the stairs that have been erected. Accordingly, the potential extent of overlooking into No 38 from the existing L-shape staircase compared to the approved spiral staircase is not significantly different.
8. The additional boundary treatment/privacy screen, including in the form of a higher and wider trellis than that shown on the submitted plans, has been erected since the Council's decision on the planning application now the subject of the appeal. I observed the extended trellis on my site visit, and noted that it prevents overlooking of No 38 from the stairs and elevated landing of the L-shape staircase.
9. The overall height of the boundary treatment currently in place on the shared boundary with No 38 is significant. However, given topography and the approved retaining walls and fence on the shared boundary, it seems to me that the additional privacy screen and overall extent of boundary treatment does not dominate No 38 to an unacceptable extent compared to the approved situation. Nor does it result in a significant and unacceptable change with regards to the outlook of the occupiers of No 38 compared to that shown on

the plans submitted with the appeal and to which the Council did not raise concern with.

10. For the above reasons, I conclude that amending the condition, so that it refers to L-shape angular stairs rather than a spiral staircase, would not harm the living conditions of adjoining occupiers in 38 Dell Road. I therefore find that the proposed development accords with Policies SDP1 and H2 of the City of Southampton Local Plan Review – Adopted Version 2nd Revision (2015). Amongst other aspects, these require development to not harm the amenity of existing residents. The proposal would also be consistent with the Council's Residential Design Guide Supplementary Planning Document in relation to it seeking development maintain existing occupants' enjoyment of their home and a reasonable level of amenity.

Other matters

11. In its appeal statement, the Council alleges that the stairs and privacy screen that have been erected on the site are imposing and visually uncharacteristic of the local area. However, I have not been presented with compelling evidence to demonstrate that this is the case, and my own observations do not indicate otherwise. Consequently, this matter does not lead me to a different decision.

Conditions

12. I have imposed a condition in an amended form to that of the previous condition 19. The amended condition refers to the L-shape staircase which has been erected on the site and requires, as suggested by the Council, details of the privacy screen on the shared boundary with No 38 to be submitted to the Council for their written approval. The amended condition is necessary and reasonable because full details including scaled plans showing the height and extent of the boundary treatment/privacy screen erected on site have not been submitted with the appeal. It is therefore necessary for such details to be provided so that the development hereby permitted is retained in the form approved and thus does not harm the living conditions of adjoining occupiers. I have also kept the reference to 34 Dell Road in the amended condition because the original condition refers to No 34 and I have little substantive evidence that that aspect of the condition has already been approved by the Council.
13. Planning Practice Guidance (PPG) makes clear that decision notices for the grant of planning permission under section 73 should restate the conditions imposed on earlier permissions that continue to have effect. With the development having been completed and now occupied, some previous conditions attached to permission 18/01159/MMA are no longer relevant. The main parties have had the opportunity to indicate which conditions they consider continue to be applicable in original or modified form. For clarity and to ensure compliance with the tests in the Framework and PPG, I have made minor amendments to the Council's suggested conditions where necessary.
14. I have re-imposed conditions 6, 8, 11 and 12 of permission 18/01159/MMA. On the basis of the available evidence, these conditions continue to have effect and remain relevant to the development hereby permitted. With the exception of condition 11, there is also no suggestion that these conditions are unnecessary or unreasonable.

15. Although the appellant has indicated that the information required under condition 11 has already been submitted to the Council, there is little substantive evidence before me that the condition has been discharged, and the Council have included it in their list of suggested conditions. I have therefore re-imposed it, but in the event that it has in fact been discharged, that is a matter which can be addressed by the parties.
16. As suggested by the Council, I have re-imposed conditions 7, 13, 15, 16 and 20 of permission 18/01159/MMA but with minor amendments given the development has been completed and is occupied. The available evidence indicates that these conditions, in slightly varied forms, remain relevant and continue to have effect, and there is nothing before me which indicates that these conditions are either unnecessary or unreasonable.

Conclusion

17. For the above reasons, the appeal is allowed.

Tobias Gethin

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Notwithstanding the plans hereby approved, within one month of the date of this decision, full details of the materials and design of the construction of the L-shape angular stairs and the method of achieving privacy for neighbouring properties (34 and 38 Dell Road), including the height and location of the privacy screen relative to the dwelling and garden of 38 Dell Road, shall be submitted to the local planning authority. The approved details shall be installed on site within one month of the Council's written approval and thereafter permanently maintained.
- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending, revoking or re-enacting that Order), no building or structures within Schedule 2, Part 1, Classes as listed below shall be erected or carried out to any dwelling house hereby permitted without the prior written consent of the Local Planning Authority: Class A (enlargement of a dwelling house), including a garage or extensions; Class B (roof alteration); Class C (other alteration to the roof); Class D (porch); Class E (curtilage structures), including a garage, shed, greenhouse, etc; Class F (hard surface area).
- 3) The external amenity space and pedestrian access to it shall remain available, in accordance with the approved plans, for the use of the occupiers of the development hereby approved.
- 4) The proposed landscaping plan, as listed below, and relevant parts of the submitted landscaping report (where not superseded by the amended landscape plan received by the Council on 16/03/2017) are considered sufficient and acceptable. Compliance with this condition will be achieved once the development has been implemented in accordance with the submitted information: Landscape plan, 005 rev A; Condition 09:

Landscaping, Landscape Scheme, Harrington Homes Ltd, Section B5, received by the Council on 22/11/2016. The approved hard and soft landscaping scheme for the whole site shall be carried out prior to occupation of the building or during the first planting season following the full completion of building works, whichever is sooner. The implemented scheme shall be maintained for a minimum period of 5 years following its complete provision. Any trees, shrubs, seeded or turfed areas which die, fail to establish, or are removed or become damaged or diseased, within a period of 5 years from the date of planting, shall be replaced by the Developer in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation. The Developer shall be responsible for any replacements for a period of 5 years from the date of planting.

- 5) Within 6 months of any part of the development first becoming occupied, written documentary evidence proving that the development has achieved at minimum 19% improvement over 2013 Dwelling Emission Rate (DER)/ Target Emission Rate (TER) (Equivalent of Code for Sustainable Homes Level 4 for Energy) and 105 Litres/Person/Day internal water use (Equivalent of Code for Sustainable Homes Level 3/4) in the form of final SAP calculations and water efficiency calculator and detailed documentary evidence confirming that the water appliances/fittings have been installed as specified shall be submitted to the Local Planning Authority for its written approval.
- 6) The scheme for the disposal of foul water and surface water drainage, as listed below, is considered sufficient and acceptable. Compliance with this condition will be achieved provided that the development is carried out in accordance with the following information: Sustainable Drainage Systems (SuDS) and Flood Risk, Assessment (FRA) Report, Revision 2. Council Ref: BE0802, Date: 30 January 2018. Prepared in support of: New two storey building with dormers in the roof space to provide 2 residential semidetached houses with lower patios, parking spaces and bin store at: 36 Dell Road, Southampton, SO18 1QS.
- 7) The refuse and recycling storage, provided in accordance with the plans previously approved by the Council, shall be retained.
- 8) The parking and access to the site, provided in accordance with the plans previously approved by the Council, shall be retained.
- 9) Cycle storage, provided in accordance with the details submitted with application 18/01159/MMA and received by the Council on 16/03/2017, shall be retained.
- 10) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No 001 rev E (received by the Council on 10.09.2019); Drawing No 002 rev E (received by the Council on 10.09.2019); Drawing No 003 rev D (received by the Council on 10.09.2019).

END OF SCHEDULE