



Appeal Decision

Site visit made on 3 August 2020

by James Taylor BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2020

Appeal Ref: APP/D1780/W/20/3249991

Land and garages adjacent to 1 Brighton Road, Southampton SO15 2JJ

- 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 Murphy (Knightsur Homes Ltd) against the decision of Southampton City Council.
 - The application Ref 19/00794/FUL, dated 29 April 2019, was refused by notice dated 9 October 2019.
 - The development proposed is described as the 'redevelopment of the site to create a three-storey building containing 3x flats (2x two bedroom and 1x one bedroom) following demolition of existing garages'.
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Decision

1. The appeal is dismissed.

Procedural matter

2. I have taken the description of the development from the appellant's appeal form with some minor amendments so as to succinctly reflect the nature of the final proposal assessed by the Council.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of the future occupiers of the development having particular regard to outlook and outside space; and the living conditions of the occupiers of 76 and 77 The Avenue having particular regard to loss of light, overbearing and privacy.

Reasons

4. The appeal site is currently occupied by a number of single-storey vacant garages. Beyond the garages, a Cedar tree within the rear garden of 76 The Avenue, and that is subject to a Tree Preservation Order, has been included within the appeal site. The proposal would introduce a significantly higher building very close to the front, rear and west sides of the modestly sized appeal site. Within the building it is proposed to provide two, two-bedroom units, over two-storeys, with a one-bedroom flat in the building's roof. All three units would have their own separate entrances.
5. The two-storey units would have very small, north-facing yards at the rear. These would need to be enclosed on all sides by high walls in order to prevent overlooking with the garden of 77 The Avenue. Whilst not determinative, I note

that the yards would be below the guide size for either dwellings or flats¹.

Moreover, outside space would be significantly smaller than is characteristic of the gardens in the area. As such, the outside space would be small, highly enclosed and provide minimal outlook for windows looking onto the garden.

6. This yard would provide the principle outlook from the proposed kitchen-diners. Whilst I acknowledge the open plan layout at ground floor, due to the depth of the development, the window at the front of the units would not adequately mitigate this poor outlook. Furthermore, the modest communal garden would not adequately supplement the houses' unsatisfactory rear yards. Nor would the proximity to local public open spaces mitigate the lack of private amenity space for future residents overall. Additionally, at first-floor level, the proposal includes opaque glazing to the lower sections of the rooms marked as 'bed 2'. This is a contrived arrangement which would erode the living conditions of future occupiers because of the restricted outlook. It is a direct result of the built form being proposed so close to the rear of the appeal site.
7. No 77 is orientated perpendicular to the appeal site with rear windows facing across its own yard toward the proposal. At ground-floor level it has a kitchen-diner window facing the appeal site. Moreover, it has two windows serving bedrooms within its basement level, with views up through light wells to the appeal site. I have had careful regard to the appellant's various Daylight, Sunlight and Overshadowing Impact Assessments by Hawkins environmental, including the most recent version (Report No H3126, V1). Whilst I note that this was based on an earlier iteration of the scheme, I still consider it to be relevant. This acknowledges that the proposal would have an impact on the outside space and habitable room windows of No 77. However, it concludes that the impact would be 'negligible' having regard to The Building Research Establishment (BRE) standards. I place significant weight on this evidence, although it remains necessary to exercise a planning judgement. From my own observations I agree that harm would occur, noting for example, that the separation between the proposal and the rear elevation of No 77 is below the RDG guidance. An issue compounded by the basement level habitable accommodation. I consider that the impact weighs against the proposal overall.
8. Similarly, I find that the effect of the proposal on No 76 weighs against the scheme overall. The proposal would not impact on the outlook from the rear of the property due to the intervening built form. However, the proposal only avoids overlooking of No 76's rear garden because of its contrived fenestration treatments. Moreover, I find that the proximity and scale of the built form to the garden of No 76 would result in some limited harm to the living conditions of the occupiers through loss of light and overbearing impact to their garden.
9. Therefore, in conclusion on this main issue I find that the proposal would be harmful to the living conditions of future occupiers of the development having particular regard to outlook and the outside space; and the living conditions of the occupiers of 76 and 77 The Avenue having particular regard to loss of light and overbearing impacts. As such, cumulatively, the proposal would be contrary to 'saved' Policies SDP1, SDP7 and SDP9 of the City of Southampton Local Plan Review – Adopted Version, March 2006 (LP), Policy CS13 of the Council's Local Development Framework – Core Strategy Development Plan Document, Adopted Version 20 January 2010, Section 12 of the National

¹ Council's Residential Design Guide – Final approved version, September 2006 (RDG)

Planning Policy Framework (the Framework) and guidance within Section 2 of the Council's RDG. The policy and guidance amongst other aims seeks to provide a high standard of living conditions for the city's citizens.

10. The Council have also had reference to 'saved' Policy H5 of the LP. However, this relates to the conversion of non-residential premises for housing purposes. As this is not a conversion scheme, I do not find it relevant.

Other matters

11. The appeal site lies within 5.6 km of a group of European designated sites known collectively as the Solent Special Protection Areas. Furthermore, the site lies within potential travelling distance of the New Forest Special Area of Conservation, Special Protection Area and Ramsar site. The Council's and Natural England's assessments have concluded that the likely significant effects on the European designated sites can be appropriately mitigated through planning obligations and the Community Infrastructure Levy. However, because I am dismissing the appeal for other reasons, in these circumstances, it is not necessary for me to reach a conclusion on this matter.
12. Furthermore, the appellant has raised the matter of nutrient neutrality. However, this has not been raised as an issue by the Council and I am dismissing the appeal for other reasons. As such, it is not necessary for me to reach a conclusion on this matter either.
13. The appellant has suggested that the proposal would be an enhancement to the character and appearance of the area, including The Avenue Conservation Area in which the site is located. I do not find the existing garage buildings to be of any architectural merit or to contribute to the significance of the designated heritage asset. However, even if I were to find such an enhancement, I have no evidence that similar benefits could not be achieved without the identified harm. As such, I afford this limited weight.
14. Whilst paragraph 59 of the Framework refers to the objective of boosting the supply of homes, the provision of three additional units would not be significant. When judged against some of the core planning principles the proposal would perform well in that it would be an efficient use of land in an urban area with good access to services and facilities. However, as set out at paragraph 124 of the Framework, good design, including regard to living conditions, is also a key aspect of sustainable development.
15. Finally, the appellant has detailed that this has been a negotiated scheme and amendments have been made in order to try and address the concerns of the Council's professional officers. However, the Council's officers ultimately recommended the proposal for refusal. The positive and proactive approach of both parties does not mitigate the harm that I have found.

Conclusion

16. For the reasons given above I conclude that the appeal should be dismissed.

James Taylor

INSPECTOR