
Appeal Decision

Site visit made on 4 August 2020

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 September 2020

Appeal Ref: APP/D1780/W/20/3250609

15 Oakhurst Road, Southampton SO17 1PU

- 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 Ranjeet Kalirai Singh against the decision of Southampton City Council.
 - The application Ref 19/01127/FUL, dated 27 June 2019, was refused by notice dated 9 October 2019.
 - The development proposed is described as *'new build 2 bed detached house with associated parking'*.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The address in the banner heading above is taken from the planning application form and appeal form. It differs from that of the decision notice which is *'land adjacent 15 Oakhurst Road'*. On my site inspection I observed that the site is clearly separated from no.15 by panel fencing and does not appear to have any direct relationship with that property. This accords with a letter of representation from the Highfield Residents' Association (HRA) which states that no.15 is a separate house owned by an HRA member. I therefore find that the address on the decision notice is more accurate and I have dealt with the appeal accordingly.
3. I have omitted reference to 'resubmission of 18/01823/FUL' from the description of development on the application form, appeal form and decision notice, since this is not descriptive of the actual development proposed.
4. Having regard to the Council's third reason for refusal, both main parties have confirmed that, prior to the refusal of the planning application, the appellant had made a financial contribution in relation to the Solent Disturbance Mitigation Project, thereby mitigating against the impact of the additional residential unit on the Special Protection Areas of the Solent coastline (SPAs). As such, the Council subsequently confirmed that, whilst not reissuing the decision notice, the third reason for refusal had been satisfactorily addressed, and that the Council would not seek to defend the issue at any subsequent appeal. I deal with this matter later on in the decision.

Main Issues

5. The main issues are:

- The effect of the proposal on the character and appearance of the area;
- The effect of the proposal on the living conditions of neighbouring occupants, with particular reference to outlook and private garden space;
- The effect of the proposal on the living conditions of future occupiers of the proposed development, with particular reference to privacy; and
- The effect of the proposal on the SPAs.

Reasons

Character and appearance

6. The appeal site comprises a rectangular-shaped piece of land which is given over to grass and enclosed to both sides and rear by panel fencing. It faces onto Oakhurst Road, where the site frontage is defined by Heras fencing, with mature shrub planting along part of the frontage.
7. The appeal proposal, to erect a detached dwelling on the site, follows two previous refused planning applications for the residential development of the plot with 2 semi-detached bungalows (Ref 17/01674/FUL) and a detached house of an identical design to the appeal proposal (Ref 18/01823/FUL).
8. The site lies within an established suburban residential area which is predominantly characterised by modest sized, detached and semi-detached dwellings with generous rear gardens and landscaped front gardens enclosed by low brick walls. An exception is the corner property adjacent to the site at 20/20A Furzedown Road which comprises a large building in use as flats, whose three/four storey rear elevation directly faces the appeal site. The built development within the site vicinity is softened by surrounding soft landscaping and the proximity of Southampton Common.
9. The evidence submitted from both main parties and third party representations, is that historically the appeal site formed part of the residential curtilage of 20/20A Furzedown Road and that the existing boundary fencing separating the appeal site from no.20/20A was erected between the refusal of application Ref 18/01823/FUL and the submission of the application which is the subject of the current appeal. Prior to that there was a dwarf wall only along the boundary.
10. The appellant states that access to the appeal site has not been available for tenants of the flats at nos.20/20A for at least 20 years. Notwithstanding this, and the altering of the property title by the appellant, the Council's view is that the planning status of the appeal site remains that of residential garden land serving 20/20A Furzedown Road. I have no cogent evidence before me to make me doubt that opinion.
11. Notwithstanding the fenced off nature of the appeal site, it nonetheless makes a positive contribution to the character and appearance of the area by providing a spacious green setting to the flats building, off-setting the visual

dominance of this large, elevated corner building within the Oakhurst Road street scene.

12. The proposed dwelling would extend across most of the site frontage, resulting in a cramped form of built development in conjunction with the building at nos.20/20A which is positioned close to the appeal site boundary. As a result, notwithstanding the cat-slide roof design and proposed rear garden for the new dwelling, the open space adjacent to the flats building would be reduced to an unacceptable level, thereby harming the visual amenities of the Oakhurst Road street scene.
13. This detrimental impact would be exacerbated by the proposed frontage parking area, which would result in built development dominating the appeal site when viewed from the street. This would be out of keeping with the pleasant green character of both sides of Oakhurst Road which comprises front gardens enclosed by low brick walls.
14. I have noted that the new dwelling would incorporate materials and fenestration detailing in keeping with the existing dwellings in the road. However, I find that the proposed building design would be visually discordant in relation to the other residential properties on this side of the road. The new building would have a narrower and more vertical design character than the existing dwellings due to its steeply pitched asymmetrical roof, and its eaves and first floor window heights which would be noticeably higher than those of 13 and 15 Oakhurst Road. This would result in a building of a design and scale which would appear incongruous within the street scene to the detriment of the visual amenities of the townscape.
15. For the above reasons, I therefore conclude that the proposed development would have a detrimental impact on the character and appearance of the area. As such, it would be contrary to Saved Policies SDP1, SDP7, and SDP9 of the *Local Plan Review (2015)* (LP) and Policies CS5 and CS13 of the *Local Development Framework Core Strategy (2015)* (CS). These policies, amongst other things, seek to ensure that new development integrates with its surroundings, is of an appropriate density for its context, and does not materially harm the character and appearance of an area, and that new buildings respect their surroundings in terms of scale, massing and visual impact. For similar reasons, the proposal would also be contrary to chapter 12 of the *National Planning Policy Framework 2019* (the Framework) which seeks to ensure high quality design.

Living conditions of neighbouring occupants

16. The side wall of the new building would lie close to the boundary with nos.20/20A Furzedown Road, whose building also lies within close proximity to the appeal site boundary and contains a large number of habitable room windows on its rear elevation which would directly face the side of the new dwelling. The Council states that there would be a distance of 4m between the buildings at single storey height and 6m where the roof pitch rises to 2-storey. These measurements are not disputed by the appellant. Even acknowledging that the rear wall of nos.20/20A is partially set back, the proposal would be contrary to the guidelines set out in the Council's adopted *Residential Design Guide (2006)* (RDG) which requires a minimum separation distance of 12.5m between the 2-storey wall and the habitable windows of the rear elevation of the adjacent flats building.

17. With this in mind, I find that due to a combination of the height, depth and mass of the new dwelling and its proximity to the site boundary with nos.20/20A, the proposal would have an overbearing impact on the outlook from a number of the rear elevation windows in the neighbouring building, and on part of the external garden area associated with it, which is sited immediately adjacent to the appeal site boundary.
18. The appellant has drawn my attention to the existing boundary wall/fence between the properties, which is shown to be of a combined height of 2.4m on the application drawings. I acknowledge that this has impacted on the outlook from some of the lower height rear wall flats windows. However, I find that its effect on the outlook from the higher rear windows and the outdoor amenity area next to the site boundary is not directly comparable to that which would occur as a result of the proposed new building. I am therefore not persuaded, even with the existing fence in place, that the appeal scheme would not have a detrimental impact on the outlook from nos.20/20A.
19. Notwithstanding that the appeal site has been severed from nos.20/20A, there is no evidence before me that the land can be lawfully used for any other purpose other than in association with the residential use of nos.20/20A. I observed during my site inspection that the property appears to be in use as a number of flats from the number of doorbells at the front entrance and the existence of separate entrance doors at the rear of the building. The Council has not confirmed how many flats are lawful, and has not specifically indicated the amount of outdoor garden space it would expect to be provided. With this in mind, and noting the existing external amenity area between the building and 19 Furzedown Road, I find that, whilst the proposal would result in the loss of a significant amount of garden land, this is not determinative to my decision, since I have insufficient information before me to ascertain how much space would be appropriate for the occupants of the building.
20. For the above reasons, I therefore conclude that the proposed development would materially harm the living conditions of neighbouring occupants in respect of outlook. As such, the development would be contrary to LP Saved Policies SDP1 and SDP9, which, amongst other things, seek to ensure that new developments do not unacceptably affect the health, safety and amenity of the city and its citizens and that they respect their surroundings in terms of local amenity. This is generally consistent with paragraph 127 of the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity, health and well-being for existing and future users.

Living conditions of future occupants of the appeal scheme

21. A degree of overlooking into private garden spaces is to be expected within built-up urban areas. However, in this instance the proposal would result in the proposed private rear garden and upper floor rooflights of the new dwelling being directly overlooked from a number of upper floor windows on the rear elevation of nos.20/20A. I have noted the appellant's proposal to obscure-glaze the bedroom rooflights of the new dwelling and windows of nos.20/20A. I accept that the former could potentially overcome the Council's concerns in respect of the privacy of the first floor bedrooms of the new dwelling, since front and rear elevation windows would also serve these bedrooms. However, the appellant has provided no specific information with regard to the use of the rooms in the rear elevation of 20/20A, and so, based on the evidence before

me, I am not persuaded that it would be appropriate to alter them to obscure-glazed without materially harming the amenity of the occupiers of that property.

22. For the above reasons, I therefore conclude that the proposed development would not provide satisfactory living conditions for the future occupiers of the appeal scheme in respect of privacy. As such, the proposal would not accord with LP Saved Policy SDP1, which amongst other things, seeks to ensure that new development does not unacceptably affect the health, safety and amenity of the city and its citizens. This is generally consistent with paragraph 127 of the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity, health and well-being for existing and future users.

SPAs

23. The site is within 5.6km of the Solent SPAs, where a net increase in housing development is considered to contribute towards an impact on the integrity of these European designated sites, as a result of increased recreational disturbance of bird species. The Council has carried out a Habitat Regulation Assessment (HRA), concluding that the adverse impacts would be avoided if mitigation is carried out in accordance with the Council's adopted Solent Recreation Mitigation Strategy (SRMP), which provides a strategic solution to ensure the requirements of the Habitats Regulations are met with regard to the in-combination effects of increased recreational pressure on the Solent SPAs arising from new residential development.
24. In respect of the appeal scheme this would require a financial contribution of £514 towards the 'Solent Disturbance Mitigation Project'. At the time of the determination of the planning application the required contribution was £500, which was paid by the appellant, resulting in the Council confirming that the third reason for refusal would not be contested at appeal. The Council has since confirmed that it has no inherent objection to the matter of the increased charge being addressed at this stage, should I be minded to allow the appeal.
25. The Council's HRA also concluded that the appeal scheme has the potential to adversely impact on the site integrity of the New Forest SPA, SAC and Ramsar site, in combination with other development in the Solent area, due to an increase in recreational disturbance to breeding populations of birds. In the absence of an agreed mitigation scheme, The Council proposes that a minimum of 10% of any CIL paid in respect of the appeal scheme should be ring-fenced to fund Suitably Accessible Green Space (SANGS).
26. Within the context of this appeal, the responsibility for assessing the effects of the proposal on the European designated sites fall to me as the competent authority. However, as other main issues provide clear reasons for dismissing the appeal, there is no need for me to consider this matter further, since any findings on this issue would not change the appeal outcome.

Other Matters

27. I have noted that the proposal represents an amended scheme from that refused under planning application Ref 18/01823/FUL. Whilst the changes to the scheme have been noted, including the erection of a boundary fence between the appeal site and nos.20/20A Furzedown Road, this does not alter

my findings with respect to the current proposal, which I must determine on the merits of the scheme before me.

28. I acknowledge that the site is in an accessible location with respect to public transport and community facilities and services. Also, there would be a small social benefit in providing an additional housing unit and economic benefits as a result of the construction and occupation of a new house. However, these benefits would not overcome the harm that I have identified in respect of the main issues.

Conclusion

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

S Leonard

INSPECTOR