



Appeal Decision

Site visit made on 15 December 2020

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 January 2021

Appeal Ref: APP/D1780/W/20/3257579

45 Lyon Street, Southampton SO14 0LW

- 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 Sharif against the decision of Southampton City Council.
 - The application Ref 19/01996/FUL, dated 28 November 2019, was refused by notice dated 14 February 2020.
 - The development proposed is a retrospective application for conversion to 3 x flats (1 x one bed, 1 x two bed and 1 x studio).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The evidence indicates that the 3 units have already been formed within the building from the previous single dwelling. I noted this at my site visit and will determine the appeal accordingly. I have used the description of the development from the decision notice and appeal form as this succinctly and accurately describes the proposal.

Main Issues

3. The main issues are:
 - whether the proposal provides adequate living conditions for the occupiers of the residential units, having particular regard to the size, layout, external amenity space and outlook,
 - the effect of the proposal on the New Forest Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site and the Solent SPAs, and
 - whether the proposal causes any unacceptable overlooking of neighbouring properties.

Reasons

Living conditions

4. The Council has indicated that it has not formally adopted the Nationally Described Space Standard (March 2015) and it appears that they are not referenced in any development plan policy. However, it believes the standards are a useful reference point for considering the suitability of the three units. Nevertheless, I attribute this matter limited weight because the Planning

Practice Guidance advises that where a local planning authority wishes to require an internal space standard, they should only do so by reference in their Local Plan to the Nationally Described Space Standard.

5. In this case, the ground floor unit has a reasonably sized front bedroom with adequate light from the front bay window. There is a satisfactory sized kitchen and living space at the rear for a one bedroom flat. This area is fairly well-lit by the rear window. The ground floor has access to the rear yard and overall the ground floor unit has an acceptable size, layout, external amenity space and outlook.
6. The top floor studio flat has a restricted head height area under the front slope of the roof. This provides the feeling of some spaciousness in conjunction with the rest of the flat and provides storage space thereby freeing up other areas of the accommodation. The front rooflight and large rear dormer window provide quite an airy and well-lit space for the studio flat. The outlook from the rear window is fairly good. The standard of accommodation is acceptable in these respects.
7. The reason for refusal highlights the lack of amenity space. While I have noted the private amenity space requirements in the Residential Design Guide (September 2006) in this case it is not possible for this upper floor studio flat to be able to provide a private external amenity area. As the site lies within the built up area of the city with good access to services, facilities and some public open space, and involves the conversion of an existing terrace building, I do not consider that the lack of external space should be determinative when the other elements of this studio flat provide satisfactory accommodation.
8. The first floor flat has two bedrooms at the front, both with windows. Both of these rooms appear fairly small and cramped; and the related kitchen/living space is unduly modest to serve the needs of a two bedroom flat. The outlook from this flat is satisfactory and the lack of external amenity space not determinative for the reasons explained in relation to the studio flat. Nevertheless, the cramped accommodation does not meet the requirements of the National Planning Policy Framework (the Framework) that development should provide a high standard of amenity for existing and future users.
9. To conclude, using the building more effectively with the provision of additional units is not in itself harmful given the location has good access to services, facilities, public transport and employment opportunities. I have found that the ground and upper floor flats provide adequate living conditions for occupiers of these units. However, I conclude that the provision of a two bedroom flat on the first floor provides cramped accommodation and therefore does not provide adequate living conditions in respect of the size and layout. It follows that the first floor flat does not meet with the requirements of Policy SPD1 of the City of Southampton Local Plan Review (2015) (the Local Plan) and Policy CS13 of the Core Strategy Development Plan Document (2015) (the Core Strategy) which seeks, in this respect, that development does not unacceptably affect the amenity of the city and its citizens.
10. The reason for refusal also references Policies SPD4 and SPD5 of the Local Plan and the Parking Standards Supplementary Planning Document. These are parking related policies and guidance. It is not clearly explained how they relate to the main issues identified in the reason for refusal. There is adequate space within the hallway to agree a scheme for the storage of bicycles and

based on the evidence before me, I do not consider that in this location parking is an issue which should weigh against the scheme.

Habitats sites

11. The evidence indicates that residential development in areas where new occupiers could access the New Forest SAC, SPA and Ramsar site, such as the appeal site, have the potential to indirectly alter the structure and function of the habitats of the breeding populations of nightjar, woodlark and Dartford warbler through disturbance from increased human and/or dog activity. The Council has confirmed that in the absence of an agreed mitigation scheme for impacts on the New Forest designated sites it has adopted a precautionary approach and ring fenced 10% of Community Infrastructure Levy (CIL) to provide alternative recreation routes within the city.
12. If I was to undertake an Appropriate Assessment in respect of the impacts of the development on the New Forest habitat sites it is likely that I would be able to conclude that the ring fenced CIL contribution would be secured to provide appropriate alternative recreational space. In such circumstances, the proposal would not significantly and adversely impact on the integrity of the New Forest habitats sites, alone or in combination with other schemes.
13. The evidence also indicates that the proposed development would be within 5.6km of part of the European designated areas of the Solent SPAs and Ramsar sites. The Council has set out information which explains in accordance with advice from Natural England, and as detailed in the Solent Recreation Mitigation Strategy, a net increase in housing development within 5.6km of the Solent SPAs is likely to result in impacts to the integrity of those habitat sites, in particular to bird habitats and breeding, through a related increase in recreational disturbance from visitors.
14. The Mitigation Strategy sets out a costed avoidance and mitigation strategy to protect the integrity of the SPAs with a payment based on the size of each residential unit. The required payment is undertaken through a legal agreement to ensure that the requirements of the strategy and the related mitigation are secured.
15. In this case, I do not have a completed agreement before me as part of this appeal to address this matter. It follows that I am unable to conclude that the proposal, either alone or in combination with other schemes, would not have a significant and adverse effect on the integrity of the Solent SPAs. I am not aware of any overriding public interest which would justify permitting the proposal or that there are any alternative solutions which would have no or a lesser effect on the integrity of the protected site. Consequently, I conclude that the proposal would not meet with the legislative requirements of the Conservation of Habitats and Species Regulations 2017¹. The scheme would therefore also be in conflict with Policy CS22 of the Core Strategy which seeks, in this respect, to ensure development does not adversely affect the integrity of international designations, and the necessary mitigation measures are provided.

¹ As recently amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019

Overlooking

16. The three units have all been laid out with kitchen areas that have windows that face out from the rear of the building. From the first and second floor rear windows there are views towards the windows of other residential properties and their outside amenity areas. However, there is already some mutual overlooking between windows and amenity areas from other properties because of the position of the two terraces which back on to each other. Many of the amenity areas are partially screened by fencing and other boundary treatments and, in this case, the immediate and direct view from the windows of the rear of the appeal premises are towards the blank wall of the property opposite.
17. I have had regard to the advice in the Residential Design Guide including the guidance on the spacing between windows of properties. However, in this case, the scheme has not produced an untypical relationship of windows to the neighbouring properties and given the existing situation the positioning does not cause any undue overlooking.
18. Accordingly I conclude that the proposal has not led to an unacceptable level of overlooking of any neighbouring property and therefore, in this respect, there is no conflict with Policy SPD1 of the Local Plan and Policy CS13 of the Core Strategy.

Other Matters

19. The proposal, if approved, would provide a boost to housing supply on a windfall site, making effective use of the land and adding to the mix of smaller and more affordable units of residential accommodation in the area. The site is located with good access to local services, facilities, public transport and employment opportunities. However, as only two additional units of accommodation would result, I attribute the cumulative benefits of the proposal limited weight. The identified benefits would not outweigh the harm I have identified above.

Conclusion

20. For the above reasons, and taking into account all other matters raised, I conclude the appeal should be dismissed.

David Wyborn

INSPECTOR