



Appeal Decision

Site visit made on 14 December 2020

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 January 2021

Appeal Ref: APP/D1780/W/20/3259463
73 Stoneham Lane, Southampton SO16 2NZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mrs Wendy Hunter of D&W Hunter Limited against Southampton City Council.
 - The application Ref 20/00321/FUL, is dated 3 March 2020.
 - The development proposed is the erection of number one two-bedroom detached bungalow. Demolition of existing double length garage and erection of new double garage.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mrs Wendy Hunter of D&W Hunter Limited against Southampton City Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appeal has been made against the non-determination of the application by the Council. The Council has indicated at the appeal stage, that had it determined the proposal, it would have been refused, in summary, because of the effect of the development on the character and appearance of the area and the impact of the residential development on the Solent Special Protection Areas (SPAs). In addition, the Appropriate Assessment undertaken by the Council indicates that there would be an effect on the New Forest Special Area of Conservation (SAC), SPA and Ramsar site.
4. Additionally there has been objections from the occupiers of the properties to the rear of the site, 9 Greenways and the two annexes. It is argued by these occupiers, amongst a range of concerns, that the proposal would have an overbearing effect on their living conditions. This matter has been examined in detail by the appellant in the original appeal statement and in the final comments. I am therefore satisfied that no party would be prejudiced by my consideration of this matter as another main issue.

Main Issues

5. The main issues are:
 - the effect of the proposal on the habitats sites,

- the effect of the proposal on the living conditions of the occupiers of 9 Greenways and the annexes, in particular with regard to any overbearing impacts, and
- the effect of the proposal on the character and appearance of the area.

Reasons

Habitats sites

6. 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 contributions to provide alternative recreation routes within the city.
7. 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.
8. The evidence also indicates that the proposed development would be within 5.6km of parts 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.
9. 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.
10. In this case, the appellant has indicated a willingness to make arrangements to secure and sign the necessary legal agreement. However, I do not have a completed agreement before me as part of this appeal.
11. 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 sites. 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

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

CS22 of the Core Strategy Development Plan Document (2015) (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.

Living conditions

12. The rear of the appeal site is presently a garden to 73 Stoneham Lane and is set at a lower level than the property to the rear, 9 Greenways. A wall separates the properties². No 9 has been extended and is angled in its plot, partly towards the proposed dwelling. In particular, a main set of patio doors, which light a main living space, lead to one of the sitting out areas at the rear of the house and would be in the vicinity of the proposed dwelling.
13. The dwelling has been designed so that it would be single storey with a reasonably shallow roof sloping away from the boundary with No 9. The plans show the eaves line about the same level as the top of the wall. However, despite the design approach, the dwelling would be quite close to the boundary, the level of the land would be raised and the roof would extend across much of the width of the plot. I viewed the proposal from No 9, both within the garden area and the dwelling itself. The extent of roof, with its height, width and closeness to the boundary would exert an immediate and unduly dominant built presence when the occupiers were using parts of the rear room adjoining the patio doors and in the adjoining garden area.
14. I have noted the views of the Council and the appellant on this matter, however, based on my site visit and all the other information, the bulk of the roof in proximity to the boundary would have an overbearing effect on the living conditions of the occupiers of No 9. That the property has other rooms and garden areas that would not be so affected, and that the annexes would not be unduly influenced by the new dwelling, does not alter my conclusion on the adverse effect that would result in this case in the circumstances I have outlined.
15. In the light of the above analysis, I conclude that the proposal would have an overbearing impact on the living conditions of the occupiers of 9 Greenways. Accordingly, it would not comply with Policy SDP1 of the City of Southampton Local Plan Review (as amended 2015) (the Local Plan) which seeks to ensure, amongst other things, in this respect that development does not unacceptably affect the amenity of the city and its citizens.

Character and appearance

16. The site is located within a built up area, consisting mainly of a mix of residential properties. From parts of Stoneham Lane, the dwellings which front the road are clearly apparent and are seen in some views in the context of the dwellings in Greenways in the background. Furthermore, I noted at my site visit the fairly sizeable dwelling under construction on the adjoining site, which is set back in the plot from the road.
17. The proposed dwelling would be sited behind No 73 and would be experienced in association with the dwelling under construction, the existing dwelling on the site, other dwellings in the road, the dwelling to the rear at No 9 and the flat roofed annexe. The dwelling would be modest in floor area, single storey and

² I am aware of the submissions regarding the position of the wall in relation to the boundary.

would be glimpsed between the existing buildings when viewed from Stoneham Lane. In the context of the surrounding buildings, the effect of the proposal would be the provision of a reasonably modest addition to the residential surroundings and be seen behind existing buildings not dissimilar to other built development in the vicinity. In these circumstances, the proposal, which would be of acceptable design and appearance, would not be out of character with the established pattern of the surrounding development.

18. In coming to this view, I consider that the proposal would be generally consistent with the guidance the Council has highlighted in the Residential Design Guide (September 2006). Furthermore, the provision of the double garage to the frontage area would be softened by the existing planting, which could be supplemented, and with the space available would not appear cramped or out of character within the street scene.
19. It follows that I conclude that the proposal would not harm the character and appearance of the area. Consequently, the scheme would accord with Policies SDP1, SDP7 and SDP9 of the Local Plan, Policy CS13 of the Core Strategy and the National Planning Policy Framework (the Framework) which in this respect seek, amongst other things, that development which would cause material harm to the character and/or appearance of an area will not be permitted.

Other Matters

20. The site would provide a boost to housing supply on a windfall site, making effective use of the land and could be delivered by a small builder adding to the overall mix and offer of housing. The location would provide occupiers with good access to services and facilities in the local area. There would be economic and social benefits to the area during construction and in subsequent occupation. The evidence indicates that the construction would deliver a low/zero carbon dwelling that has been designed to meet the 'home for life' standards with easy accessibility for all future occupants. Furthermore, the position of the dwelling would reduce overlooking from No 9 into the rear garden of No 73. However, taking all these benefits into account, as only a single additional unit of accommodation would result, I attribute the cumulative benefits of the proposal limited weight.

Conclusion

21. I have found that the scheme would not harm the character and appearance of the area and the impact on the New Forest habitats sites would be addressed. However, these matters are neutral in the overall considerations. The cumulative benefits from the provision of the additional dwelling are limited. The collective harm to the Solent SPAs and the living conditions of the occupiers of No. 9 are matters that I attribute substantial weight. It follows that the benefits would not outweigh the harm.
22. For the reasons given above, the scheme would not comply with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm and associated development plan conflict. I therefore conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR