
Appeal Decision

Site visit made on 19 May 2021

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 09 June 2021

Appeal Ref: APP/D1780/W/21/3267276

52 Chatsworth Road, Southampton SO19 7NJ

- 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 G Warnes against the decision of Southampton City Council.
 - The application Ref 20/00690/FUL, dated 22 May 2020, was refused by notice dated 21 July 2020.
 - The development proposed is described as a single storey (2 bedroom) dwelling (Class C3) with associated car and bicycle parking and bin storage following demolition of side conservatory and detached garage.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey (2 bedroom) dwelling (Class C3) with associated car and bicycle parking and bin storage following demolition of side conservatory and detached garage, at 52 Chatsworth Road, Southampton SO19 7NJ, in accordance with the terms of the application, Ref. 20/00690/FUL, dated 22 May 2020, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matters

2. The Council's decision notice mixes reference to 52 Chatsworth Road with 50 Chatsworth Road, and this is compounded by apparent further reference to 'south' in place of north. These errors were at least partly clarified in correspondence with the appellant, and are otherwise reasonably obvious.

Main Issues

3. The main issues are the effect of the development on:
 - the character and appearance of the area; and
 - the living conditions of occupants of Nos 50 and 52, with regard to light and outlook; and occupants of No 50 with regard to noise and disturbance.

Reasons

Character and appearance

4. Chatsworth Road contains a mix of semi-detached and detached 2-storey dwellings, amongst which there is a scatter of single storey bungalows. Design varies, as does scale and footprint. Though dwellings are generally well spaced, infilling has occurred in various locations, both resulting in a more closely developed frontage, and differences in plot width, size and density. This is

particularly apparent immediately to the north of No 52. The development would thus occur within a context capable of absorbing further variation.

5. The proposed development would see construction of a single storey bungalow. This would be narrower in width than other bungalows in the street, thus giving rise to a rearward projection reasonably deep into the plot. In this regard the Council's objection specifically relates to the rear projection.
6. Buildings along Chatsworth Road generally follow a similar line at the frontage. Despite gaps between buildings however, the arrangement to the rear is not generally appreciable from within the street, and nor would the depth of the proposed dwelling.
7. The depth of dwellings otherwise varies due to differences in footprint and the addition of extensions. Here I note the Council's attempt to define a 'rear building line' on an aerial photo, and the fact that the proposed dwelling would project further back into the plot than appears to be typical. However, no such building line is apparent in the ground, and even from the air a lack of overall consistency is clear. Moreover, many gardens also contain large outbuildings. In this regard the character, form and scale of the distinct rear component of the proposed dwelling would not be wholly unlike that of a large outbuilding.
8. Visibility of the rear component of the proposed dwelling, and appreciation of the size and density of the plot would otherwise be limited outside the plot and its immediate setting. Beyond No 52, and to a lesser extent No 50, no more than partial and increasingly oblique views towards it would exist from the first floor windows. A partial long view from the dwelling on the opposite side of Chatsworth Road might also just be possible. Broader perception of the development would thus be extremely limited. For this reason, and view of my findings above, the development would not therefore give rise to any unacceptable harm to the character and appearance of the area at large.
9. The Council has referred to a number of appeal decisions relating to sites elsewhere, in which glimpsed views or views from non-public vantage points were held to be of importance. Such views can indeed be important. However, their importance, as too their particular relevance depends upon both the context and development in question, which in all these cases differ from those in the current appeal. I have therefore considered the appeal on its own merits.
10. For the reasons outlined above I conclude that the development would have an acceptable effect on the character and appearance of the area. It would therefore comply with saved Policy SDP7 of the City of Southampton Local Plan Review 2015 (LPR) which this seeks to secure development that respects the existing layout, scale, density and proportion of existing buildings; Policy CS13 of the Core Strategy, which requires development to positively and integrate with its local surroundings; and, insofar as it is relevant, supporting guidance in the Residential Design Guide Supplementary Planning Document (the SPD).

Living conditions

(a) No 50

11. Given that the development would be located to the north of the garden of No 50, it would not cause any shading. Nor would it cause any harmful loss of daylight.

12. The northward outlook from the garden of No 50 is in any case currently dominated by a substantial privet hedge. The hedge is sufficient height that it would substantially screen the rear section of the proposed dwelling from the garden of No 50. In this regard the appellant states that the hedge would be retained, albeit some pruning would be required. Given the mutually beneficial function the hedge both does and would play in providing privacy it otherwise appears unlikely that it would be removed. Even were it to be removed or reduced in height however, the outlook from the garden of No 50 would not be significantly less open than it is at present.
13. The location of the proposed courtyard garden would be similar to that of the outdoor patio space at No 50. There appears to be nothing at all unusual in the provision of an outdoor seating area in such a location. Nor would it be unusual if were the same area to be incorporated within the seating space to the rear of No 52. That being so, the intensity and manner in which such a space might be used could be similar whether or not the development occurred. Exactly the same would be true in relation of use of the garden space to the rear of the proposed dwelling, particularly when also taking into account the frequent provision of large summerhouses at the back of plots, such as that currently installed at No 52.
14. The Council has expressed further concern in relation to noise which might leak from the kitchen of the proposed dwelling. The kitchen window would however be in location no further back in the plot than the rear elements of many other dwellings in the street, including No 50 and 54A Chatsworth Road. The generation of noise in relation to normal domestic activities in such a location would not therefore be unusual. Though the window would face west rather east, this would still be less likely to give rise to disturbance than if the window faced south towards No 50. The latter is a relevant consideration in view of the fact that both No 50 and 52 feature windows in their side elevations. Thus, whilst the development would introduce a potential source of noise closer to the boundary with No 50 than exists at present, this would not be unacceptable.
15. The application was also partly refused on the basis of harm to privacy arising from 'interlooking' between the proposed ground floor windows, and one of the first-floor bedroom windows of No 50. The appellant suggested that this could be addressed by fitting a brise soleil over the kitchen window, and the Council agreed. Views towards the bedroom window are however already possible from many locations within the garden of No 52. Whilst the frequency of such views might be increased from the fixed point of the proposed kitchen window, the view itself would be limited. Indeed, taking the height difference and angle into account, as too the likely depth of kitchen units, there would be little if any scope for the occupants of the proposed dwelling to clearly see into the bedroom in question. There is therefore no necessity to fit a brise soleil, or grounds to require this by condition.
16. The occupants of No 50 have raised additional concerns in relation to loss of light and outlook from their dining room window, light pollution, and odour relating to drains, refuse and use of the proposed bathroom. These concerns are not shared by the Council. Light and outlook are already subject of obstruction by the existing garage and dwelling at No 52, and this would see only modest change, and there is no particular reason to consider that

unusually harmful levels of odour or light would be generated. The location in which bins would be stored can otherwise be addressed by condition.

17. For the reasons outlined above I conclude that the living conditions of occupants at No 50 would not be unacceptably harmed by the development. It would therefore comply with saved Policy SDP1 of the LPR, which seeks to safeguard the health, safety and amenity of the city and its citizens, and supporting guidance set out within the SPD.

(b) No 52

18. The hedge between No 50 and No 52 both shades, and restricts the outlook from the garden of No 52. Given the common demarcation of rear boundaries with high hedges, this appears to be reasonably typical of back gardens within the street. The effects are currently alleviated by the length and width of the plot at No 52.
19. As the rear section of the proposed dwelling would run along the boundary, it would similarly shade and restrict the outlook from the garden of No 52. As the width of existing plot would be reduced by the development, these effects would not be alleviated in the same way as they are at present. The width of the retained garden space would nonetheless remain greater than that of No 54A to the north, and both a considerable length and area of unaffected space would remain beyond.
20. The side elevation of the proposed dwelling would be likely to appear less attractive from the garden of No 52 than a hedge. It would however remain open to the occupants of No 52 to screen it with planting, and the specific details of its appearance could otherwise be the subject of a condition.
21. Insofar as the proposed dwelling would stand alongside No 52, there would be some impact on the outlook from the kitchen and dining room windows of No 52, each of which are located within the side elevation. The effects would not however be exceptional when having regard to the layout and design of dwellings within the street, within which obstruction of outlook and light by adjacent buildings is fairly typical. Indeed, much as considered in relation to No 50 above, both light and outlook from the dining room window are already obstructed by the existing garage, and by No 50. The effects would be alleviated were a previously approved extension to be constructed at No 52, or if the dining room window was relocated. Neither would however be essential measures in view of my findings above.
22. For the above reasons, shading and obstruction of the outlook from part of the retained garden space of No 52 and from No 52 itself would not be unacceptable considered either in themselves, or set within context. Nor would there be any unacceptable loss of daylight.
23. For the reasons outlined above I conclude that the living conditions of occupants at No 52 would not be unacceptably harmed by the development. It would therefore again comply with saved Policy SDP1 of the LPR, as detailed above, and supporting guidance set out within the SPD.

Other Matters

24. The Conservation of Habitats and Species Regulations 2017 states that before deciding to grant planning permission for a project which is likely to have a

significant effect on a European site (either alone or in combination with other plans or projects), and is not directly connected with or necessary to the management of that site, a competent authority must make an Appropriate Assessment (AA) of the implications of the plan or project for that site in view of that site's conservation objectives.

25. The potential for the development to have a likely significant effect on the integrity of the Solent and Southampton Water Special Protection Area (SPA) and Ramsar site, the Solent Maritime Special Area of Conservation (SAC) (the Solent sites), and the New Forest SPA, SAC and Ramsar sites (the New Forest sites), both alone, and in combination with other plans or projects, arises due to the increased population it would support, and the associated generation of recreational activity which could be ecologically harmful. An AA is therefore required.
26. Both the likely effects of the development, and the need for mitigation, have each been confirmed within an AA undertaken by the Council. Natural England has indicated that it raises no objection subject to mitigation being secured in line with the AA and the Council's adopted strategy. I am content to rely on the Council's AA, and Natural England's response for the purposes of this appeal.
27. Mitigation would involve a combination of infrastructure and non-infrastructure measures, funded by financial contributions collected in relation to the Solent sites, and CIL contributions collected in relation to the New Forest sites. Whilst the development would not be liable to pay CIL, the required monies have otherwise been ringfenced by the Council. The required financial contribution is itself covered by a payment made in relation to a previous scheme on the site which was dismissed at appeal. Use of this contribution in relation to the current scheme has been secured through an agreement under Section 111 of the Local Government Act 1972. I am satisfied the above allows me to reach a conclusion that the development would have no adverse effect on the integrity of habitats sites.

Conditions

28. I have imposed standard conditions setting out the time period for commencement, and identifying the approved plans for sake of certainty. The Council has also suggested a range of additional conditions which I have considered, as set out below. Where imposing conditions I have using modified wordings where necessary.
29. Condition (3) places limits on the times that typical noise generating works can take place. The condition is necessary in order to prevent undue disturbance of immediate neighbours, particularly given the higher potential for works to occur outside normal working hours in relation to a self-build scheme.
30. Condition (4) requires the development to be carried out in accordance with the Arboricultural report. This is in the interests of safeguarding the boundary hedge and the general contribution that it makes to amenity.
31. Condition (5) requires the prior approval of materials, and is necessary to help ensure the development has a satisfactory appearance relative to its setting.
32. Condition (6) requires the installation of a cycle store and bin store of approved design and location. Though some details are already shown on the plans, these are very limited. The condition is required to facilitate use of sustainable

- modes of travel, and to assist in waste management. I have not imposed a requirement for bins to be placed within the bin store except on collection day, as this would be neither wholly reasonable and nor practical to enforce.
33. Condition (7) requires the parking spaces, amenity spaces and access between to be laid out and enclosed in accordance with the plans. The condition is required in order to secure the provision and functionality of these spaces both in the interests of the amenity of future occupants, and in order to ensure that the development caters for the parking demand it generates.
34. Conditions (8) and (9) are imposed in relation to water and energy efficiency. The basis for these requirements derived from Policy CS20 of the CS, which must be applied in light of the Written Ministerial Statement of March 2015, the Framework, and the advice to interpret policies with reference to national standards. In this regard I have imposed a requirement to comply with the Building Regulations optional standard in relation to water efficiency, and a requirement to meet a level of energy performance equivalent to what was previously the Code for Sustainable Homes Level 4. The conditions are necessary in the interests of promoting environmental sustainability.
35. Condition (10) restricts the future addition of extensions as permitted development. This is necessary in view of the positioning of the dwelling relative to No 52, which I have found acceptable partly on the basis that a reasonable proportion of the retained garden space at No 52 would remain unaffected. Further requested restrictions in relation to roof enlargement and alterations, and the installation of doors and windows in the north-east elevation are unnecessary. This is because the shape and pitch of the roof would leave little scope for modification within the limits permitted, and there is no obvious scope for additional windows and doors to be installed in the rear elevation.
36. I have not imposed 2 suggested conditions requiring the dining room window of No 52 to be repositioned, and for the previously approved extension of No 52 to be implemented. Whilst the latter would prevent compliance with the former, I already have outlined above the lack of necessity for either measure.
37. I have also not imposed a condition requiring submission of a construction management plan. This is because it would be excessively onerous given the small scale of the development, and its limited potential to generate otherwise avoidable levels of noise, dust or other disruption during the hours set out within Condition (3).
38. There is also no reason to require a soft landscaping scheme in relation to the back garden, as this would be a wholly private space. The laying out of parking and amenity space is otherwise adequately addressed within Condition (6).

Conclusion

39. For the reasons set out above I conclude that the appeal should be allowed.

Benjamin Webb

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Unless modified in compliance with the conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans: 1080/01; 1080/02; 1080/03.
- 3) Works of demolition, clearance and construction of the development hereby permitted shall only take place between the hours of: 08:00 to 18:00 Monday to Friday, 09:00 to 13:00 Saturday, and not at all on Sundays and public holidays.
- 4) The development hereby permitted shall be carried out in accordance with the recommendations of the Arboriculture Report dated 15th January 2021 in relation to protection of the boundary hedge during construction.
- 5) Construction of the dwelling hereby permitted shall not proceed above slab level until specific details, including samples, of all facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.
- 6) Prior to the first occupation of the dwelling hereby permitted:
 - (a) a bin store; and
 - (b) a cycle storefor use by its occupants, shall be installed within locations, and shall be of such designs, as have first been submitted to and approved in writing by the local planning authority.
- 7) Prior to the first occupation of the dwelling hereby permitted the 2 parking spaces in front of the dwelling, the amenity spaces to the centre and rear, and the access between shall be laid out and enclosed in accordance with the approved plans.
- 8) The dwelling hereby permitted shall not be occupied until the optional requirement set out within regulation 36(2)(b) of the Building Regulations 2010 as amended, has been complied with.
- 9) The dwelling hereby permitted shall not be occupied until the relevant requirements for achieving a level of energy performance equivalent to ENE1 at level 4 of the Code for Sustainable Homes have been met, and the details of compliance have been provided to the local planning authority.
- 10) Notwithstanding the provisions of Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order), no extension shall be added to the dwelling hereby permitted unless expressly permitted by the Local Planning Authority.