



Appeal Decision

Site visit made on 18 May 2021

by **S Leonard BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 October 2021

Appeal Ref: APP/D1780/W/21/3267076

279 Northumberland Road, Southampton SO14 0EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr I Bajar against the decision of Southampton City Council.
 - The application Ref 20/00705/OUT, dated 13 May 2020, was refused by notice dated 27 July 2020.
 - The development proposed is erection of a 4-storey building to contain 8 flats (6 x 1-bed and 2 x studio) with associated cycle/refuse storage, following demolition of existing building.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is in outline form, with access, appearance, layout and scale to be considered as part of this proposal. I have dealt with the appeal accordingly.
3. The description of development is taken from the appeal form and decision notice, as it more accurately describes the proposal than that on the application form. I have omitted '*(Outline application seeking approval for Access, Appearance, Layout and Scale) (Resubmission 20/00169/OUT)*' from the description of development, since this is not descriptive of the actual development proposed.
4. Since the refusal of the planning application and the submission of this appeal, a revised version of the *National Planning Policy Framework* (the Framework) was published on 20 July 2021. The main parties were given the opportunity to address this matter, and I have taken this into account where relevant to my decision.

Applications for costs

5. Applications for costs were made by Mr I Bajar and Southampton City Council against each other. These applications are the subject of separate Decisions.

Main Issues

6. The Council's first reason for refusal relates to insufficient supporting information to demonstrate that the proposal would provide adequate living conditions for future occupiers of the proposal in respect of vibration, and in respect of the usability of the private balconies having regard to the external noise environment.

7. Following the appellant's submission of a Vibration Report to the Council after the refusal of the planning application, the Council's appeal statement confirms that the Council no longer wishes to dispute the vibration aspect of the first reason for refusal.
8. At final comments stage, the appellant provided further information in respect of noise mitigation measures with regard to the noise environment of the proposed external private balconies, including a letter from the appellant's Noise Consultant dated 30 April 2021. The Council has subsequently confirmed that, subject to an additional planning condition in respect of balcony screening, this information is sufficient to address the noise concerns raised within the first reason for refusal. I have dealt with the appeal accordingly.
9. Having regard to the above, the main issues are:
 - The impact of the proposal on the character and appearance of the area;
 - Whether the proposal can mitigate against impacts on the highway network; and
 - Whether the proposal can mitigate against impacts on the European designated sites of the Solent SPAs and the New Forest SPA, SAC and Ramsar site.

Reasons

Character and Appearance

10. The site is located at the corner of Northumberland Road and Mount Pleasant Road within a mixed residential and commercial part of the city. The site is separated from the main residential part of Northumberland Road by schools and a playground, and there is no vehicular access between the short end of the road in which the appeal site is located and the main residential area. The site is also separated from residential development to the west in Derby Road and beyond, by a vehicle repair garage and tyre fitting business on the opposite side of Northumberland Road. To the north, there are vehicle sales, parking and storage premises and a public house, and there are commercial premises adjacent to the railway behind.
11. The mainline railway crosses Mount Pleasant Road in close proximity to the site, where there is a signal-controlled level crossing and pedestrian footbridge. I saw during my site visit, that Mount Pleasant Road is a busy traffic route and that cars queue up outside the appeal site when the level crossing is closed.
12. The area to the east of the railway line is mixed use, with commercial/industrial premises flanking the railway line and recent residential regeneration development beyond, leading up to the River Itchen, which includes high-rise flatted development.
13. The appeal property comprises a traditionally designed two-storey building with brick walls under a tiled hipped/pitched roof. Whilst in use as 4 flats, it has the external appearance, and scale and massing, associated with a period pair of semi-detached houses.
14. The area to the west of the railway line, including the appeal site, is characterised by two-storey traditional domestic scale housing development, which is interspersed with commercial properties of a similar height.

Contemporary high-rise flatted development is not a feature of the immediate locality of the appeal site. Whilst the taller recent residential developments to the east can be seen from Mount Pleasant Road in front of the site, they form a separate, more comprehensively planned area of development, which is clearly distinct from the appeal site and its immediate locality, being separated by the railway line and adjacent commercial development.

15. The appeal proposal would stand out as an anomaly within the context of its immediate surroundings. The combined height, mass and bulk of building would be significantly greater than those of the building that it would replace. As such, the new building would appear out of context with the lower forms of built development characteristic of this side of the railway line. The proposal would appear unduly prominent within the street scene, occupying a position from where it could be viewed by car drivers queuing at the railway crossing, pedestrians using the footbridge, and passengers of passing trains. The visual dominance of the building as viewed from the public realm would be magnified by its close proximity to both the street and railway facing site frontages, resulting in a cramped building form which would dominate the appeal site and have an overbearing impact on the townscape.
16. The use of brick would reflect the materials of nearby housing. However, the contemporary flat-roofed form of the building and the full height fenestration and balcony additions would not be in keeping with either the traditional pitched roof housing which is typical of the area, nor the form of the neighbouring commercial buildings. This would serve to further draw attention to the building within the immediate townscape.
17. The corner position of the site suits a focal point building. However, the proposed building design does not specifically address the corner of the two roads. Moreover, its significantly larger height and large areas of unrelieved brickwork on north, south and east elevations, would serve to draw attention to its unduly large scale and massing and utilitarian design, which is incongruous within its immediate setting.
18. The appellant has drawn my attention to recent flatted developments along the Bevois Valley transport corridor. I have not been provided with details of the planning history of those developments, but I saw during my site visit that these developments are not within the immediate vicinity of the appeal site, and that the context of their site surroundings and the nature of these developments are not directly comparable with those of the appeal proposal, which I must determine on its merits having regard to the particular circumstances of the appeal site and the scheme before me.
19. For the above reasons I conclude that the proposal would have a detrimental impact on the character and appearance of the area. As such, the appeal scheme would be contrary to Policies SDP1(i), SDP7(iv) and (v) and SDP9(i) and (v) of the *City of Southampton Local Plan Review – Adopted Version 2nd Revision* (2015) (the LPR), Policy CS13 of the *Local Development Framework Core Strategy Development Plan Document – Amended Version Incorporating the Core Strategy Partial Review March 2015* (the CSPR) and Section 3 of the *Residential Design Guide SPD* (2006). These policies and guidance, amongst other aims, require new development to be of a high-quality design, respond positively and integrate with its local surroundings, not materially harm the

character and appearance of an area, and respect its surroundings in terms of scale, massing, proportion of existing buildings and visual impact.

20. For similar reasons, the proposal would also be contrary to Policies of the Framework which seek to achieve well-designed places, as set out in Chapter 12. These include Paragraph 126 which states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve, and Paragraph 134 which confirms that development that is not well-designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

Highway Impacts

21. The first part of the Council's third reason for refusal relates to the failure of the application to contribute to measures which will mitigate the additional impact arising from the appeal scheme on the transport infrastructure within the site vicinity by promoting and improving alternative modes of transport, such as cycling and walking and access to public transport. Such works would be implemented as part of the development scheme and secured by a Section 106 legal agreement in respect of either a financial contribution to be paid to the Council to carry out the agreed works, or the provision of the works directly by the developer by means of a Section 278 licence.
22. CSPR Policy CS25 relates to the delivery of infrastructure and developer contributions, stating that development will only be permitted if the necessary infrastructure, services, facilities and amenities to meet the needs of the development are available or will be provided at the appropriate time. The Council's *Developer Contributions Supplementary Planning Document* (2013) sets out the Council's Policy for securing developer contributions from new development, including site specific transport requirements, and is supplementary to the CSPR. As such, I attribute weight to it.
23. Having regard to the above, and the nature of the proposal, I consider that, in principle, a contribution towards site specific transport improvements in the vicinity of the site would meet the three tests set out in Paragraph 56 of the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010, in that planning obligations should only be accepted where they are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to it. I have no draft planning obligation before me and no specific details in respect of the amount and type of contributions that would be sought by the Council. However, as I am dismissing the appeal on the grounds of the first main issue, there is no need for me to consider this matter further, since any findings on this issue would not change the appeal outcome.
24. The second part of the Council's third reason for refusal relates to the requirement for the appellant to enter into a Highway Condition Survey Obligation to ensure that the condition of the public highway is maintained throughout the implementation of the development. The Council states that this approach has generally been accepted by developers, whilst the appellant's view is that other appeal Inspectors have not accepted such a S106 obligation. I have no cogent evidence before me to support either opinion. Whilst I consider such an agreement to be acceptable in principle, having regard to the three aforementioned tests, as I have not been provided with precise wording

for this obligation, and I am dismissing this appeal for other reasons, there is no need for me to consider this matter further as it would not alter the outcome of this appeal.

Solent SPAs and the New Forest SPA, SAC and Ramsar site

25. The third part of the Council's third reason for refusal relates a failure to mitigate against the impacts of the development upon the Solent SPAs. 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, in combination with other development within the Solent area, 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.
26. In respect of the appeal scheme this would require a financial contribution per new dwelling, the amount being based on the number of bedrooms, towards the 'Solent Disturbance Mitigation Project', to be secured by a Section 106 legal agreement. Whilst the appellant has confirmed no objection to a justified legal agreement, based on a contribution related to an increase in occupancy of 4 units, if requested by Natural England, there is no completed Section 106 agreement before me as part of this appeal.
27. 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 percentage of the CIL paid in respect of the appeal scheme should be ring-fenced to fund improvements to footpaths within the greenways and other semi-natural greenspaces in order to provide alternative dog walking areas for new residents.
28. 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 the first main issue provides 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 and planning balance

29. Since the refusal of the planning application and the submission of this appeal, the transition period in respect of the new standard method for assessing local housing need where strategic policies are more than 5 years old, has ended. Accordingly, since the new methodology includes a 35% uplift for Southampton City, the Council has provided a five-year housing land supply position statement, upon which the appellant's views have been sought.
30. The Council has confirmed that it is unable to demonstrate a five-year supply of deliverable housing sites. It considers that it has a 4.53 year supply. Whilst the

appellant considers that this figure is too high, citing the Council's inclusion of student and specialist forms of accommodation, and non-viability of approved housing developments in support of a lower figure, I have no cogent evidence before me that the five-year supply is acute.

31. Paragraph 11 of the Framework applies, which states that relevant policies for the supply of housing should not be considered up to date where a five-year housing land supply cannot be demonstrated. Paragraph 11 states that where relevant policies are out of date, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance, provides a clear reason for refusing the development proposed, or the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole or specific policies in the Framework indicate that development should be restricted.
32. Paragraph 8 of the Framework defines the three dimensions of sustainable development as performing economic, social and environmental objectives. When judged against some of the core planning principles of the Framework, the appeal proposal would perform well in that it would be in an urban area where access to facilities is likely to be greatest. 4 additional dwellings would make a modest contribution towards addressing the housing supply deficit, and could be built-out relatively quickly, having regard to paragraph 69 of the Framework. There would also be economic benefits as a result of the construction and occupation of the new dwellings. By providing starter units, the proposal would also contribute to the Framework objective of creating mixed and balanced communities.
33. However, a high standard of design is also a key aspect of sustainable development. The harm I have identified to the character and appearance of the area would be significant. As a result, the social objective of sustainable development of fostering well-designed and beautiful places, would not be achieved. Whilst the Framework encourages the effective use of land in meeting the need for homes and requires the Council to approach decisions in a positive and creative way, these matters are not unqualified and would not address or outweigh the aforementioned harm that I have identified to the character and appearance of the area.
34. Therefore, when assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework.
35. I acknowledge that the proposal represents an amended scheme from that refused under planning application Ref 20/00169/OUT. Whilst the changes to the proposal have been noted, including a reduction from 5 storeys to 4 storeys and replacement of cladding with brick, this does not alter my findings with respect to the current proposal, which I must determine on the merits of the current scheme.

Conclusion

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

S Leonard

INSPECTOR