
Appeal Decision

Site Visit made on 14 September 2021

by Mr S Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2021

Appeal Ref: APP/D1780/W/21/3274411

153 Derby Road, SOUTHAMPTON, SO14 0DW

- 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 Charna Banga against the decision of Southampton City Council.
 - The application Ref 21/00066/FUL, dated 17 January 2021, was refused by notice dated 15 March 2021.
 - The development proposed is the change from a house of multiple occupancy to 2 x 2 bed apartments for rent, with access to rear courtyard for both apartments.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on (1) the provision of family sized homes in the city, (2) the living conditions of future occupants and (3) internationally protected ecology sites.

Reasons

Loss of a family house

3. Policy CS16 of the Core Strategy sets out that the Council will provide a mix of housing types and more sustainable and balanced communities. To help achieve this the policy states that there is no net loss of family homes on sites. Whilst described as a 'house of multiple occupation' (HMO), it is currently arranged as a three bedroom house, with direct access to usable private amenity space. Whilst the garden space is small for an end-of-terrace dwelling such as this, the size and location of the house means it could accommodate a family.
4. The proposal would result in two x two bedroom flats, which would be less likely to accommodate a family (policy CS16 sets out that a family dwelling should have at least three bedrooms). I understand that the proposal would result in some relatively spacious rooms with high ceilings, but I would conclude that the proposal would lead to the loss of a potential family house.
5. Consequently, the loss of a family unit undermines the mix, balance and sustainability of the community and this together with the resulting density conflicts with Policy CS 16 of the Core Strategy which seeks to protect the provision of family housing.

Living Conditions

6. Currently the house is set up as a HMO with three bedrooms as shown on the 'existing' plans. To serve this dwelling is a yard area which is narrow but long. It is quite enclosed and seemed quite shaded, but it would provide an outdoor space available for all existing occupants.
7. The proposal would create two flats, with one being on the first floor. It seems the intention is for the first floor flat to have shared use of the yard, but if they were, they would have no direct access and would have to leave onto the public footway and then re-enter via the side gate. This is not ideal or convenient.
8. If used as a shared outdoor space, then this would be a small amenity space for occupiers of both flats combined. It currently serves the three bedroomed house, but the proposal for the flats would result in four bedrooms with a strong possibility of more overall occupants using this small and narrow space. Furthermore, if those in the upper floor flat were to use the yard they would be directly outside the windows of the ground floor flat, where occupants would likely expect more privacy.
9. If occupants of the first floor flat had no access to the yard, then they would have no outdoor amenity space. This is in an area where there does not appear to be much in the way of public outdoor space either, based on my observations and the evidence before me. Furthermore, this would mean that occupants of the first floor flat would have no access to the bike store or bins area in this yard. This would not be an appropriate arrangement.
10. For these reasons the proposal would be contrary to policy CS5 of the Council's Amended Core Strategy (2015); and saved policies SDP1(i) of the Amended Local Plan Review (2015). These policies require increased housing density to be assessed against the quality of open space, whilst also requiring development to not unacceptably affect the health, safety and amenity of the city and its citizens, amongst other things.
11. The proposal is also in conflict with the relevant sections of the adopted Residential Design Guide Supplementary Planning Guidance (SPD), which requires that all developments should provide an appropriate amount of private amenity space for each dwelling to use, and that rear gardens should have useable space with some privacy, together with setting a minimum garden size for flats within suburban areas, amongst other things.
12. However, on this matter I am not persuaded there is any conflict with CS16 of the Core Strategy.

Internationally protected ecology sites

13. The Council's third reason for refusal related to the lack of a Section 106 Agreement or unilateral undertaking to mitigate against the wider direct impacts of the proposal with regards to the additional pressure that further residential development will place upon the Special Protection Areas (SPAs) of the Solent Coastline.
14. From the evidence provided the net additional dwelling would likely add to the cumulative adverse effect of residential development in the area on the Solent SPAs and the habitats of key bird species through recreational pressures.

15. There would be a similar likely impact to the New Forest SAC, SPA and Ramsar sites, through recreational impacts from more residential dwellings in the area. However, mitigation for this can be obtained through a CIL contribution, to fund improvements to footpaths within the greenways and other semi-natural greenspaces. If I was to allow this appeal I would likely require more information on this matter.
16. For the Solent SPA, however, there is the Solent Disturbance Mitigation Project and a contribution towards this would be by way of a legal agreement which would contribute towards mitigation. Whilst the appellant has signalled an intention to contribute towards this mitigation there is no evidence of a payment or legal agreement.
17. Therefore, this means there is no provision for mitigation towards the Solent Disturbance Mitigation Project to mitigate the adverse impact of new residential development on internationally protected bird habitats (SPA). The proposal is therefore contrary to Policy CS22 of the Council's Amended Core Strategy (2015) which requires that development does not adversely affect the integrity of international designations and provides the necessary mitigation measures.

Other Matters

18. The proposal would provide a net increase of dwellings, which would boost housing land supply in an accessible area. I understand that the proposals may have some benefit to the building in terms of renovation, for example. However, the benefits would be modest, whilst I have concluded that the proposal would result in significant harm for the reasons set out above. The benefits are therefore significantly and demonstrably outweighed by the harms.

Conclusion

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

Mr S Rennie

INSPECTOR