
Appeal Decision

Site visit made on 24 May 2022

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 May 2022

Appeal Ref: APP/W1715/W/21/3285579

Land to rear of 30 Spring Lane and 1 Hamilton Road SO50 6BA

- 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 Rana against the decision of Eastleigh Borough Council.
 - The application Ref F/21/90799, dated 7 June 2021, was refused by notice dated 3 August 2021.
 - The development proposed is the erection of 1 no. dwelling with associated parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the refusal of the planning application and the submission of this appeal, the *Eastleigh Borough Local Plan 2016-2036* (the Local Plan) was adopted on 25 April 2022. This replaces all the saved policies of the adopted *Eastleigh Borough Local Plan Review 2001-2011* (the LPR), and it comprises the relevant development plan for the purposes of the determination of this appeal.
3. I have dealt with the appeal accordingly, and I attach full weight to Local Plan Policies DM1 and DM11, which were included in the Council's decision notice, having regard to the advanced stage of the emerging Local Plan at the time of the Council's decision. I also attach full weight to Local Plan Policy DM14, which relates to parking, and is referenced in the Addendum to the Council's Statement of Case. Whilst not specifically referred to in the Council's second reason for refusal, this policy replaces the former saved Policy 104.T of the LPR. The appellant has had the opportunity to comment on the Council's submitted updated policy position statement, and, as such, is not prejudiced by the weight attached to this policy.

Main Issues

4. The main issues are:
 - The impact of the proposal on the living conditions of future occupiers of the proposed dwelling and the occupiers of 30 Spring Lane and 1 Hamilton Road, having regard to the provision of residential communal garden space;
 - Whether the proposal provides sufficient on-site parking, having regard to highway safety and convenience; and
 - The effect of the proposal on the integrity of the Solent European Sites (EPS).

Reasons

Living conditions

5. The appeal site is located on the corner of Spring Lane and Hamilton Road, within an established residential area comprising predominantly terraced and semi-detached two storey period properties, together with some more modern three-storey flats nearby in Spring Lane.
6. The site is occupied by a two-storey building which fronts onto both streets and contains three x 2-bedroom flats, a single one-bedroom flat and a ground floor hairdressing salon.
7. To the rear of the building, and fronting onto Hamilton Road, are communal garden, bin storage and car parking areas which serve the occupants of the building. In addition, there is one parking space in front of the building in connection with the ground floor commercial use.
8. The existing rear garden is predominantly laid to lawn. It is flat and enclosed from public views by close-boarded fencing. It is also readily accessible from the flats building that it serves, and is conveniently located in relation to the shared parking and bin storage areas, incorporating paved pathway access.
9. Having regard to its layout, and the presence within it of domestic paraphernalia, including outdoor furniture, a barbecue and a washing line, which I observed during my site inspection, I find that the existing garden provides a useful and functional area of outdoor living space, making a positive contribution to the living conditions of the occupants of the building.
10. It is reasonable to expect the development to provide an amount of outdoor living space appropriate to the needs of the appeal site occupiers, noting that the proposal would result in an additional household on the site, and that three of the existing dwellings are 2-bedroomed in size.
11. The proposal would result in the loss of a significant portion of the existing usable area of the garden, amounting to approximately half of the lawned area south of the central footpath. This would have a notable impact on the communal outdoor space available for the existing residents.
12. The remaining outdoor communal garden space would amount to significantly less than the minimum residential communal garden space requirement of 25 sqm per dwelling, as set out in the Council's adopted *Quality Places Supplementary Planning Document* (2011) (the QPSPD).
13. Whilst the QPSPD is not part of the development plan, it was adopted by the Council, following public consultation, to support the delivery of the development plan, including saved Policy 59.BE of the now superseded LPR, and it is also referred to in the supporting text to Policy DM1 of the recently adopted Local Plan. As such, I find the QPSPD to be a material consideration in the determination of this appeal, and the minimum garden space standards contained therein to comprise a reasonable benchmark for the determination of this appeal.
14. The proposed private balcony area within the new building would provide individual private outdoor living space for the occupiers of the new flat, enabling a sufficient amount of room for sitting outside, which would be

appropriate for the needs of the proposed one-bedroom dwelling. However, even subtracting this balcony area from the required amount of communal garden space would still amount to a pronounced shortfall for the four existing flats. Moreover, it is also reasonable to expect that the occupants of the new dwelling may wish to share the communal garden area, for example for recreational use or drying washing.

15. As such, and using the minimum figure of 25 sqm within the QPSPD as a guide, I find that the appeal scheme would significantly undermine the ability of the communal garden area to provide satisfactory outdoor space for the residents of the appeal site as a whole, having regard to typical requirements which include sitting/eating outside and the provision of outdoor drying facilities, and the provision of outdoor play space, which I find to be a reasonable requirement, having regard to the 2-bedroom nature of three of the flats.
16. I acknowledge that the appeal site does not currently meet the communal garden space standards of the QPSPD. However, this does not justify the proposed further reduction in useable garden space and the associated erosion of the living conditions of existing residents.
17. For the above reasons, I therefore conclude that the proposal would not provide satisfactory living conditions for future occupiers of the proposed dwelling and the occupiers of 30 Spring Lane and 1 Hamilton Road, having regard to the provision of residential communal garden space. As such, the development would not accord with Local Plan Policy DM1 and the QPSPD. This policy and guidance, amongst other things, require new development not to have an unacceptable impact on, and where possible enhance the residential amenities of both new and existing residents, and provide appropriate useable private and/or communal outdoor amenity space.
18. This is generally consistent with guidance within the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity, health and well-being for existing and future users (Paragraph 130).

Car parking

19. The Council's second reason for refusal is concerned with the failure of the proposal to accord with the minimum car parking requirements of the Council's adopted *Residential Parking Standards Supplementary Planning Document* (2009) (the RPSSPD). I have afforded weight to this document, having regard to its role in supporting the relevant development plan policies, including Policy DM14 of the recently adopted Local Plan.
20. The RPSSPD requires 10 on-site parking spaces to be provided for the appeal scheme in respect of allocated provision, and I concur with the Council that proposed parking space no.8 would not be practically useable. The existing parking arrangement is unallocated, and the appellant is proposing that 4 of the appeal scheme parking spaces be unallocated. As such, the RPSSPD would require the provision of 8 on-site parking spaces, and the proposal would only fall short by the under-provision of one space.
21. The Council states that the area is well-known for being a busy area for parking. I have also noted third party concerns in respect of the exacerbation of existing car parking pressures within the appeal site locality.

22. Whilst I do not doubt that there are a number of nearby properties which do not benefit from on-site parking, I do not have any cogent evidence before me to demonstrate that they are linked to inadequate on-street parking availability.
23. Moreover, the Council has not provided any substantive evidence to show that there is an existing problem in respect of on-street parking within the vicinity of the appeal site which is resulting in highway safety concerns or inconvenience to local residents, such as parking surveys, photographic evidence or numbers of issued Penalty Charge Notices.
24. During my site inspection, which took place on a weekday lunch time, I observed that unrestricted on-site parking is available within the vicinity of the site, including along both sides of Hamilton Road, and parts of Spring Lane, and I could conveniently park on the street close to the site.
25. I did not witness any localised parking problems, parking congestion or illegal parking within the site vicinity at the time of my visit, although I acknowledge that this was only a snapshot during the day, and there may well be more on-street parking at other times, including during the evening and at weekends.
26. I have also taken account of the appellant's submitted parking survey and analysis, which demonstrates the availability of on-street parking, noting that the survey was undertaken during the late evening period, and during the Covid lockdown, when it can be reasonably assumed that on-street parking demand was at one of its highest periods.
27. Moreover, whilst the site is approximately 1 mile from the town centre, it is nonetheless within an accessible location having regard to local community services and shops and bus public transport routes. In addition, the proposal would provide for secure on-site cycle parking. As such, there is a likelihood of future occupants of the proposal using alternative modes of transport other than the car.
28. For the above reasons, I conclude that, on the basis of the evidence before me, it has not been satisfactorily demonstrated that the proposal would not provide sufficient on-site parking, having regard to highway safety and convenience. As such, whilst not according with the Council's parking standards as set out in the RPSSPD, having regard to the particular circumstances of the appeal scheme and the site location, together with the relatively small shortfall against the Council's parking standards, the appeal proposal would not conflict with the objectives of Local Plan Policy DM14, in so much as this policy requires new residential development to provide off-highway parking which is adequate in terms of highway safety/traffic management, taking account of the RPSSPD.
29. For similar reasons, the proposal would accord with Paragraph 111 of the Framework, which states that development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts of development would be severe.

EPS

30. Since the refusal of the planning application and the submission of the appeal, the Council has confirmed that part of the Council's third reason for refusal, in respect of the failure of the proposal to provide mitigation to offset the impacts

of the development upon the Solent European Sites (EPS) arising from additional recreational pressure, is not applicable, as the site does not fall within the relevant zone of impact.

31. The remainder of the Council's third reason for refusal relates to the failure of the appeal scheme to mitigate the 'in combination' effects of the development upon the Solent EPS, having regard to increased levels of nutrients from wastewater from new dwellings entering the Solent and causing eutrophication at the designated sites which impacts on the protected habitats and bird species.
32. The Council has confirmed that this reason for refusal could be addressed by means of an appropriate scheme of mitigation, and the appellant has confirmed willingness to comply with any such mitigation scheme the Council should adopt. However, as it stands there is no detailed scheme of mitigation before me.
33. 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. Had I been minded to allow the appeal, and the circumstances therefore existed in which planning permission could be granted, it would have been necessary for me to examine this matter further, and to undertake an Appropriate Assessment (AA) of the implications of the appeal scheme for the European designated sites. However, as the first main issue provides clear reasons for dismissing the appeal, the outcome of any such AA would have no bearing on the overall outcome of this appeal. There is therefore no need for me to consider this matter any further as part of my decision, since any findings on this issue would not change the appeal outcome.

Other Matters

34. 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 within a designated settlement policy boundary where access to facilities and public transport connections is likely to be greatest. It would contribute towards the Council's housing supply, and it could be built-out relatively quickly, having regard to paragraph 69 of the Framework. However, the contribution would be very modest, and there is no evidence before me that the Council is unable to identify a five year supply of deliverable housing.
35. There would also be modest economic benefits as a result of the construction of the development and the occupation of the new dwelling. By providing a small one-bedroom unit, which could suit first-time buyers, or elderly downsizers, the proposal would also contribute to the Framework objective of creating mixed and balanced communities.
36. 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, this is not unqualified, and would not address, or outweigh, the aforementioned harm that I have identified in respect of the first main issue.
37. I have noted that the planning application submission takes account of pre-application advice that the appellant received from the Council, including

alterations to the landscaping and bin storage layouts, and the submission of a car parking survey. However, this does not alter or outweigh my conclusion on the first main issue.

38. The Council has raised no objection to the appeal scheme in respect of matters including the principle of development, design, and neighbouring privacy and outlook. In terms of the planning balance, the lack of identified harm is a neutral factor that does not diminish the significant harm that would arise from the proposal in respect of the living conditions of future occupants.

Conclusion

39. Notwithstanding the lack of demonstrable harm in respect of on-site parking provision, the significant harm to the living conditions of the future occupiers of the proposed dwelling and the occupiers of 30 Spring Lane and 1 Hamilton Road is a sufficient reason to dismiss the appeal.
40. For the reasons given above, I conclude that the appeal should be dismissed.

S Leonard

INSPECTOR