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# Appeal Decision

Site visit made on 31 January 2023

**by Juliet Rogers BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 March 2023**

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**Appeal Ref: APP/D1780/W/22/3302621**

**58 Northbrook Road, Southampton SO14 0BU**

- 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 Ms Iram Mushtaq against the decision of Southampton City Council.
  - The application Ref 21/01435/FUL, dated 23 September 2021, was refused by notice dated 4 April 2022.
  - The development proposed is a shop front.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Notwithstanding the proposed development is described as a shop front, this is to facilitate a change of use of part of the property to a shop. It is clear that the Council determined the planning application on this basis, as shall I.

## Main Issues

3. The main issues are:
  - the effect of the proposed development on the character and appearance of the area;
  - the effect of the proposed development on the parking conditions in the area and consequently on highway safety;
  - whether the proposed development would provide adequate commercial waste facilities; and
  - the effect of the proposed development on the living conditions of neighbouring occupiers, with particular reference to noise.

## Reasons

### *Character and appearance*

4. The appeal site comprises a two-storey property located in a terrace of dwellings with similar features, including ground floor bay windows and arched front doorway recesses. The rhythm provided by these similar features is a strong characteristic in the streetscene and the local area. The proposed development would replace the front window section of the bay with a double-glazed door and brick surround, providing two entrances into the narrow property. Whilst other properties in the terrace have been altered, such

alterations have maintained the rhythm of the architecture, and no dwellings have two entrances onto the street. Therefore, whilst limited alterations to the front of the property are proposed and the existing residential use of the site is retained in part, the appeal scheme would create a discordant feature in the terrace and overall streetscene.

5. I conclude that the proposed development would unacceptably harm the character and appearance of the area, contrary to Saved policies SDP7 and SDP9 of the City of Southampton Local Plan Review (amended 2015) (the Local Plan) and Policy CS13 of the Local Development Framework Core Strategy (amended 2015) (the Core Strategy). These policies, amongst other provisions, seek to ensure new development is of a high quality, respects the surroundings and does not harm the character or appearance of the area. I also find conflict with Chapter 12 of the National Planning Policy Framework (the Framework) which requires development to be well-designed and sympathetic to local character.

#### *Highway safety*

6. Northbrook Road is located within a controlled parking area which restricts on street parking on a Monday-Saturday between 8am-6pm to permit holders or paying non-residents to a maximum of 2 hours. A disabled parking bay is located immediately to the front of the appeal site. Although only a snapshot in time, during my site visit I observed few on street parking spaces available on Northbrook Road or in the nearby streets of Argyle Road, St Marks Road and Nichols Road. Furthermore, I observed several vehicles parked on double yellow lines.
7. The Southampton City Council's Parking Standards Supplementary Planning Document (2011) (the SPD) sets out the approved parking standards for different uses in the Council area. The appeal scheme would comprise a small floorspace area for retail use and therefore the maximum parking standard for such a use would be low. However, no car parking spaces are proposed with the appeal scheme and, as they are approximately 10 minutes walk from the appeal site, it is unlikely customers would use the nearest pay by the hour car parks.
8. As a result, customers travelling to the appeal site via private car would increase the pressure for parking in an area of existing high demand. Due to the limited number of parking spaces in the area, this may result in drivers having to drive around nearby streets several times before finding an available bay. It also has the potential to encourage drivers, to minimise inconvenience to themselves, to park in potentially unsafe and hazardous locations, which could prejudice the safety of pedestrians, cyclists and other drivers, including those authorised to use the disabled bay, in the area.
9. I recognise that the appellant wishes to provide a business that would be attractive to those within the local community and has suggested that, as customers are all locally based, they are likely to walk to visit the proposed shop. However, this cannot be guaranteed, regardless of the proximity of other similar businesses nearby. Additionally, there is no mechanism before me which would restrict the use of the property to a particular shop.
10. Consequently, I conclude the proposed development would result in further pressure on an area with an existing high demand for on street parking. It

would, therefore, be contrary to Saved Policy SDP1 of the Local Plan which resists development that unacceptably affects the health, safety and amenity of the city and its citizens and Policy CS19 of the Core Strategy which is reflected by the SPD. It would also conflict with Chapter 9 of the Framework which aims to create places that are safe, secure and attractive, and which minimise the scope for conflicts between pedestrians, cyclists and vehicles.

### *Commercial waste*

11. Whilst the storage of residential waste bins in the front of properties in the area is commonplace, given the absence of commercial uses close to the appeal site, commercial waste facilities are not a usual feature in the streetscene. Although a plan<sup>1</sup> submitted with the appeal application shows spaces for both commercial and residential bins at the front of the appeal property, the area available in this location is limited. Combined with the lack of details regarding the management of waste and recycling materials generated by the shop use I am not persuaded that it has been demonstrated there is sufficient space to accommodate adequate commercial waste facilities. Therefore, there is the potential that bins would be left on the pavement, and commercial waste and recycling placed in residential bins or overflow into the highway, thereby impacting on the health and safety of users of Northbrook Road.
12. As a result, I conclude that the proposed development would not provide adequate commercial waste storage for the shop, contrary to Saved Policy SDP1 of the Local Plan and Policy CS13 of the Core Strategy as set out above. Whilst the Council also refer to Section 9 of the Residential Design Guide (2006), as this relates to the provision of residential waste storage it is not determinative in this case.

### *Living conditions - noise*

13. The appeal site is located outside an identified Local or District Centre. The appeal scheme would lead to an increase in the activity and also, as a result, noise from people entering and exiting the property, in comparison with the existing residential use. However, given the small scale of the shop floorspace proposed and the predominant use of the property remaining residential, I am not persuaded that any increase would be disturbing, despite the proximity of existing neighbours. Furthermore, a condition controlling the opening hours of the proposed shop, could be imposed to limit the activity associated with the retail use.
14. I conclude that the proposed development would not unacceptably harm the living conditions of neighbouring occupiers, with particular reference to noise and would accord with saved policies SDP1 and SDP16 of the Local Plan. These policies restrict development that would unacceptably affect the amenity of the city's citizens, with particular regard to noise. It would also accord with Chapter 12 of the Framework which seeks to ensure development provides a high standard of amenity for existing users.

## **Planning Balance and Conclusion**

15. Within my decision, I have taken into account that religion is a relevant protected characteristic for the purposes of the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010 (the PSED). The PSED

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<sup>1</sup> Plan ref: Shop Front submitted to the Council on 1 November 2021

requires due regard to be had to its three aims: eliminating discrimination, harassment, victimisation; advancing equality of opportunity, involving having due regard, in particular, to considerations including the need to remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; and fostering good relations between persons who share a relevant protected characteristic and persons who do not share it by tackling prejudice and promoting understanding.

16. The proposed retail unit would provide some public economic benefits to the local community, through the provision of a new shop, including those sharing a protected characteristic. I acknowledge the letter signed by other residents of Northbrook Road expressing support for the proposed shop and highlighting these benefits. Whilst these benefits would be limited given the scale of the proposed shop, they weigh considerably in favour of the appeal scheme.
17. I sympathise with the appellant's financial position and acknowledge that the appeal scheme would provide benefits in this regard. I also recognise the distress caused resulting from the medical needs of the appellant's children. As set out in the Planning Practice Guidance (PPG), planning is concerned, in general, with land use in the public interest rather than the protection of purely private interests<sup>2</sup>. As such, the weight I can attach to these personal circumstances is limited. In addition, it has not been demonstrated that the proposed development is the only option available to the appellant to achieve their desired aims.
18. In conclusion, the benefits set out above must be balanced against the harm I have identified in terms of character and appearance, highway safety and provision of adequate commercial waste facilities, and the associated conflict with the development plan. I given substantial weight to this conflict. Having had due regard to the PSED and all matters raised, the harm I have identified above outweighs the benefits of the proposed development in terms of eliminating discrimination against persons with the protected characteristic of religion, advancing equality of opportunity for those persons and fostering good relations between them and others. Consequently, it is proportionate and necessary to determine the appeal in accordance with the development plan as a whole and to dismiss the appeal.

*Juliet Rogers*

INSPECTOR

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<sup>2</sup> Paragraph: 008 Reference ID: 21b-008-20140306