



Appeal Decision

Site visit made on 18 April 2023

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2023

Appeal Ref: APP/W1715/W/22/3293649

Land Rear of 74-76 Desborough Road, Eastleigh SO50 5LP

- 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 Ian Soulsby of Now Legal LLP against the decision of Eastleigh Borough Council.
 - The application Ref F/21/91388, dated 20 August 2021, was refused by notice dated 2 December 2021.
 - The development proposed is 'proposed replacement building on three floors to provide 4 flats (3x 1 beds & 1x 2 beds)'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Eastleigh Borough Council Eastleigh Borough Local Plan 2016-2036 (the Local Plan) was adopted on 25 April 2022. The Local Plan replaces the Eastleigh Borough Local Plan Review (2001-2011). At the time of making their decision on the planning application subject of this appeal, the Council referred to emerging policies within the draft Local Plan. Copies of the now-adopted policies of the Local Plan which were referred to within the Decision Notice have been supplied. It is mandatory to take account of the most relevant and up-to-date information in reaching a decision and I have therefore dealt with the appeal on this basis. The main parties have had the opportunity to comment on the relevant policies contained in the Local Plan and have therefore not been prejudiced.
3. A Unilateral Undertaking (UU) completed following the determination of the application has been provided as part of this appeal. It includes an obligation relating to the payment of financial contributions towards a nutrient neutrality offset scheme and the Solent Recreation Mitigation Partnership. I will return to this matter later in this decision letter.

Main Issues

4. The main issues are;
 - whether the proposal would provide adequate living conditions for future occupiers of the building, with particular regard to daylight and outlook; and; the effect of the development on;
 - the living conditions of the occupiers of neighbouring properties, with particular regard to light and outlook; and
 - the character and appearance of the area.

Reasons

Living conditions - future occupiers

5. A relatively narrow service road off Blenheim Road, and generally narrow yet varying-width pavement and service areas separate the appeal site from the side of the neighbouring multi-storey Swan Centre. The proposed development, which would have internal accommodation over three floors in the section closest to the Swan Centre, would occupy the majority of the appeal site. There is no dispute between the main parties that the internal floor areas and balcony sizes are adequate. Nevertheless, the quality of living accommodation is not solely dependent on its size.
6. Notwithstanding the adjacent exterior car parking area, future occupiers of the proposed development would be able to enjoy a reasonable outlook from the rooms with south-facing windows and/or glazed doors, and from the south-facing balconies and terrace. This is due to the relative openness between these areas and the junction between the service road and Blenheim Road. However, the two bedrooms within flat four would be provided with either a window or a glazed opening directly addressing the side wall of the Swan Centre. These bedrooms would not have dual aspects. From within these rooms, and from the sole private outside space/balcony serving flat three, the outlook would be severely constricted by the almost parallel and close, dominant and oppressive side wall of the Swan Centre.
7. Although within the Eastleigh Borough Council Quality Places Supplementary Planning Document 2011 (the SPD) it is indicated that daylighting is generally less important in bedrooms, it may still be considered in such spaces. The SPD provides guidance on both how to assess daylighting and what is likely to constitute good daylighting.
8. I accept that the south-facing windows and glazed doors in the proposed building would enable good levels of natural daylight to be secured within parts of the accommodation. However, the separation distance between the proposed building and the Swan Centre would be limited. Given this and the substantial height of the Swan Centre in relation to the glazing within the Swan Centre-facing elevation of the proposed building, I do not doubt that the existing building would obstruct a significant amount of the daylight which would otherwise be able to enter the accommodation.
9. I have not been provided with any compelling evidence from which to clarify that adequate levels of daylight could be secured within all of the main living rooms within the development – which would also include bedrooms. On the evidence before me, and for the reasons given above, I am therefore unable to conclude that the level of daylight which would be available to future occupiers within the proposed accommodation - particularly within the two bedrooms within flat 4 - would not be harmfully restricted.
10. My attention has been drawn to a nearby development at the junction between Blenheim and Southampton Roads, and to the Wells Place Centre. Whilst I am unaware of the basis upon which these developments may have been permitted, I note that the building on the junction between Blenheim and Southampton Roads is stepped back from the rear of the pavement. Furthermore, the outlook from the road-facing windows is more open than would be the case from the windows proposed within the Swan Centre facing

elevation of the development subject of this appeal. In respect of the Wells Place Centre, I cannot be certain that the windows addressing the Swan Centre serve habitable rooms of dwellings. As such, these nearby developments do not lead me away from my previous findings in respect of this main issue.

11. For the reasons given above, in respect of outlook the development would fail to provide adequate living conditions for future occupiers. Furthermore, and in the absence of sufficient evidence to the contrary, I am unable to conclude that it would not also fail to provide adequate living conditions for future occupiers in respect of daylight. Consequently, and in these respects, the development would conflict with Policy DM1 of the Local Plan, which requires development to not have an unacceptable impact on the residential amenities of new residents. For the same reasons, it would also conflict with a key design principle contained within the SPD, to ensure that new development is designed to respect the residential amenity of new occupiers.

Living conditions – occupiers of neighbouring properties

12. The proposed development would comprise two and three-storey elements. The two-storey section would be on the side of the site closest to the predominantly two-storey terraced houses on Desborough Road. Although considerably lower in height than the Swan Centre building, the proposed development would be constructed much closer to the rear boundaries of neighbouring properties on Desborough Road than the Swan Centre building.
13. The evidence suggests that the proposals would cause some increased overshadowing of gardens serving properties on Desborough Road during the summer and autumn. However, it also shows that by 10:00 on autumn days, large proportions of most of the affected gardens would no longer be overshadowed by the proposed building. Furthermore, from the evidence, the areas of the gardens closest to the rear of the houses (of the properties that would be affected by increased overshadowing) would not endure increased overshadowing at those times of day and in non-winter months when rear gardens may reasonably be expected to be used more heavily.
14. Although no cogent evidence has been provided with regard to the shadowing effects of the proposals during the winter, I would not reasonably expect people to use their gardens at this time of year, to such an extent that any additional shading, if there were any, would cause significant harm.
15. Given the limited extent; time; and parts of the year that there would be increased overshadowing within the rear gardens of nearby properties on Desborough Road, the proposals would not cause unacceptable harm to the living conditions of the occupiers of these properties, in respect of this matter.
16. Due in part to historic extensions to those properties on Desborough Road closest to the appeal site, the depths of rear gardens vary. The proposed development would result in a 2-storey wall being constructed either on or very close to and extending across the whole of the rear boundaries of numbers 74 and 76. However, the gardens serving these properties retain reasonable depths. The introduction of the development on or close to the rear boundaries - the bulk of which would be interrupted by the use of a variety of external materials - would not, therefore, result in a materially harmful reduction in the outlook available to users of the gardens at numbers 74 and 76. Nor, in terms of outlook, would the development cause unacceptable harm to users of the

gardens of other neighbouring properties on Desborough Road, which are less closely related to the appeal site.

17. For the reasons given above, the development proposal would not cause unacceptable harm to the living conditions of the occupiers of neighbouring properties with particular regard to outlook and light. Consequently, and in respect of this main issue, it would comply with Policy DM1 of the Local Plan, which requires development to not have an unacceptable impact on the residential amenities of existing residents. It would also comply with the SPD, where it guides that external private amenity spaces need to be sunny and well-connected to interior spaces to encourage use.

Character and appearance

18. A single-storey building currently occupies the majority of the appeal site. It is located between the mainly two-storey terraced residential houses on Desborough Road and the significantly taller and bulky, flat-roofed Swan Centre, in a built-up edge of town centre location. The building on the appeal site and the neighbouring single-storey buildings which address the service road are of a modest scale, form, and design, often with flat roofs. In common with the service road and the service areas associated with the operation of the Swan Centre, these buildings are of a largely ancillary nature and scale to neighbouring development. Together they inform the distinctive character and appearance of the area, which differs from that of the neighbouring residential and commercial areas.
19. Although substantially taller and of a larger scale than the neighbouring single-storey structures, the proposed building would be of a similar height to the closest houses on Desborough Road, but substantially lower and smaller in scale than the Swan Centre.
20. Being faced mainly in brick, albeit of differing colours; having a relatively simple form; and flat roof elements, the proposals would relate well to the neighbouring Swan Centre. Furthermore, due to its relatively simple exterior appearance, and its medium scale, the proposed building would provide a better link between the houses within Desborough Road and the Swan Centre, than the existing building on site. As such, the proposed development would, albeit to a limited extent, enhance the appearance of the area. Furthermore, the activity associated with the introduction of new residential development would add vitality to the area.
21. Due to the large footprint of the building relative to the plot size, there would be limited opportunities to incorporate a ground-level soft landscaping scheme to soften the appearance of the building from locations in the public realm. However, I have already found that the proposals would enhance the appearance of the area without such provision.
22. For the reasons provided, the development would enhance the character and appearance of the area. In respect of this main issue, it would not conflict with Policy DM1 of the Local Plan which requires development to not have an unacceptable impact on the character and appearance of urban areas and to be well integrated in terms of mass, materials, layout, design and siting, both in itself and in relation to adjoining buildings. Also in respect of this main issue, it would also comply with the SPD where it seeks to secure good design, which responds to the site context and has its own identity.

Other matters

23. I understand that the appellant is frustrated by both the multiple changes in Council officers and the effect that this has had upon the consistency of advice received in respect of the proposals subject of this appeal. Nevertheless, these matters have little to do with the planning merits of the case before me.
24. In coming to a view on this scheme I have taken into account the community involvement exercise undertaken by the appellant.

Planning balance

25. There would be a benefit from the creation of small energy-efficient homes in a sustainable and built-up location close to a range of services and facilities. The development would help to meet the housing needs within the Borough; and, it would be likely to provide accommodation at a lower cost than equivalent larger homes. In principle, the use of the land for residential purposes would therefore be an effective use of the land. The proposals could deliver benefits in terms of biodiversity and the local economy during the construction phase. They would also contribute to the vitality of the town. In these respects, the proposals would comply with paragraph 60 of the National Planning Policy Framework. I have also found that the development would lead to an enhancement of the character and appearance of the area. However, given the scale of the scheme, any benefits would be small, and the weight that can therefore be attributed to them is limited.
26. No openings are proposed in the Desborough Road-facing elevation of the building, and only two high-level (and at first-floor obscurely glazed) windows are proposed in the elevation addressing the side boundary of Number 72 Desborough Road. However, the absence of harm to the living conditions of the occupiers of neighbouring properties with respect of privacy is a neutral factor. That the development would not cause unacceptable harm to the living conditions of the occupiers of neighbouring properties with particular regard to outlook and light is also a neutral factor.
27. I attribute great weight to the harm that would be caused to the living conditions of future occupiers, with particular regard to outlook and daylight.
28. The proposal conflicts with the development plan when taken as a whole, and there are no material considerations, either individually or in combination that outweigh the identified harm and associated development plan conflict. As this indicates that permission should be refused, there would be no pathways to adverse effects on the integrity of the New Forest National Park Site of Special Scientific Interest; Special Protection Area; and Ramsar sites, or the Solent Complex, whether or not that could ultimately be mitigated through the submitted planning obligation.

Conclusion

29. For the reasons given above, the appeal is dismissed.

V Simpson

INSPECTOR