



Appeal Decision

Site visit made on 3 October 2023

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2023

Appeal Ref: APP/D1780/W/23/3320223

3 Montague Avenue, Southampton SO19 0QH

- 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 Andrew Duff against the decision of Southampton City Council.
 - The application Ref 23/00113/OUT, dated 27 January 2023, was refused by notice dated 3 April 2023.
 - The development proposed is the erection of a pair of semi-detached dwellings following demolition of the existing bungalow.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal scheme seeks outline planning permission with appearance and landscaping reserved for future consideration. I have considered the appeal and accompanying plans accordingly.
3. I am satisfied the reference to Pentire Avenue within the opening of the Council's Statement of Case is in error.
4. The National Planning Policy Framework (the Framework) was updated on 5 September 2023. However, the sections pertinent to this appeal have not materially altered and so I will reference the revised version in my decision.

Main Issues

5. The main issues are the effect of the proposal on the special protected areas of the Solent Coastline, and the character and appearance of the area.

Reasons

Special Protected Areas of the Solent Coastline (SPAsc)

6. The SPAsc includes 3 Special Protection Areas (Solent and Dorset Coast, Solent and Southampton Water, and the New Forest), 2 Ramsar sites (Solent and Southampton Water and New Forest), and 3 Areas of Conservation (Solent Maritime, River Itchen, and New Forest). All of which are sensitive areas providing unique habitats for a variety of species susceptible to predation and disturbance, and in proximity of the appeal site.
7. The Conservation of Habitats and Species Regulations 2017 (Habitat Regulations) require that I, as the competent authority, must decide if the integrity of the protected sites would be affected by that proposed. Regulation

70 of the Habitats Regulations also requires that outline permission must not be granted unless the competent authority is satisfied that no development is likely to adversely affect the integrity of the protected sites.

8. The proposal would create an additional dwelling, which whilst minimal on its own, would contribute to an increased population in combination with other plans, projects, and developments in the area. Given the proximity of the development to the SPAsc, it is likely that its contribution to the increase in population could lead to an increase in visitor and recreational pressure within the SPAsc, and an increase in wastewater generation which could result in a release of nutrients into the watercourses relevant to the SPAsc. Given the susceptibility and vulnerability of the qualifying features of the SPAsc to such uses, it cannot be concluded that the development would not adversely affect the integrity of the protected sites in combination with other projects.
9. It is noted that the Council have only considered recreational pressure within its reason for refusal, however Natural England brought up concerns relating to wastewater generation during the application process and both parties have considered this.
10. In relation to recreational pressure the Council has a long-standing strategy whereby a financial contribution can be paid to mitigate against the recreational impact of new development, the Solent Recreation Mitigation Strategy (SRMP). The Council also allots 5% of Community Infrastructure Levy (CIL) payments towards the generation of Suitably Accessible Green Spaces (SANGs) to provide alternative recreational opportunities for residents.
11. The appellant has stated they would purchase credits from the Eastleigh Borough Council's mitigation scheme (EMS) to offset the nutrient impact from the additional wastewater generation.
12. However, there is nothing before me to secure the financial contribution outlined by the SRMP, nor provide certainty that credits would be available from the EMS which, as identified in the appellant's Nutrient Assessment and Budget document, is of finite size. It is also noted that Natural England are unclear as to how the 5% of CIL payment would be used to protect the New Forest elements of the SPAsc.
13. No alternative mitigation strategy has been put forward, nor is there anything before me which further clarifies or could clearly alleviate these matters. As such, the proposal would not provide adequate mitigation for the likely adverse effect the proposal could have on the integrity of the SPAsc.
14. The main parties have suggested the use of a condition to secure the required mitigation. However, in this case, without specific details of all the mitigation measures proposed nor how those measures would be actioned, there is insufficient certainty or clarity in detail to ensure the reasonable use of a condition, negatively worded or otherwise.
15. Therefore, I am unable to conclude that the proposal would not have a harmful effect on the SPAsc. Consequently, the proposal would fail to comply with Policy CS22 of the Local Development Framework Core Strategy (CS) which, amongst other things, seeks to ensure development does not adversely affect the integrity of internationally designated sites.

Character and appearance

16. Montague Avenue has a mix of residential properties along its length which vary in height, are detached or semi-detached, and have a mix of finishes, styles, and detailing. This mix of building style and form extends to the surrounding area including Smythe Road and Botley Road. Along with the generally set back position of most properties, this gives the area a traditionally suburban and domesticated character and appearance.
17. The appeal site constitutes a corner plot located at the junction of Montague Avenue and Smythe Road. It has a single storey dwelling with a low-pitched roof, which is set well back from the road edge and screened from both roads by wooden fencing. This creates an insular and enclosed site, at odds to the more open frontages of surrounding properties.
18. The adjacent property, 1 Smythe Road, has a wide and open frontage. On the other side of the site, the side elevation of 199 Botley Road runs the near full length of its plot and is located close to the boundary with Montague Avenue. Opposite the appeal site on Montague Avenue there is a series of bungalows some of which have dormers, whilst on the opposite side of Smythe Road are 2-storey dwellings. Due to the mix of orientations and building types this empathises the mixed character and appearance of the area.
19. The proposal would retain the existing vehicle access and locate the new building closer to the junction, broadly in-line with the side elevation of 199 Botley Road and the frontage of 1 Smythe Road. The new building would create domestic frontages facing both Montague Avenue and Smythe Road, which would visually open the site up along both roads and create an accent to the junction. It would also reflect the pattern of built form within the residential block the appeal site is part of.
20. It is appreciated the proposed layout would create a dwelling frontage closer to the pavement of Montague Avenue than elsewhere along the road. However due to the existing nature of the appeal site, the proposed hedging which would soften the site boundaries, and the creation of active street frontage, the proposal would be more in keeping with the overall residential character and appearance of the area than the appeal site currently, and better relate to the immediate properties on either side.
21. The hipped roof of the single storey element would better reflect the roof form of the bungalows in the area, and the proposed 2 storey element would be similar in height and form of the other 2 storey properties along Montague Road and Smythe Road. Consequently, the proposed layout and scale of development would not be out of character with the area as a whole.
22. It is noted that the Council consider the proposed plot widths would be narrow for the area, However, this would not be visually obvious as the form of the proposed new building, although 2 dwellings, would be read as a singular property when viewed from either Smythe Road or Montague Avenue. This would, therefore, give the impression the full plot width is related to a singular dwelling. The only point the plot divisions would be evident is from the rear of the site and this would not be obvious from any public vantage points, so would not impact on the character and appearance of the area.

23. Consequently, by virtue of its access, scale and layout, the proposal would not have a detrimental effect on the character and appearance of the area. It would comply with Policies SDP7 and SDP9 of the City of Southampton Local Plan, CS Policies CS5 and CS13, and the Framework insofar as they seek to ensure development is of appropriate scale and massing to respect that of its surroundings.
24. The proposal would also align with paragraphs 3.7.7, 3.9.1 and 3.9.2 of the Council's Residential Design Guide Supplementary Planning Document (SPD) as far as they consider new infill development and plot to footprint ratio. The Council has referred to other SPD paragraphs which reference access to natural light, outlook, privacy, and private amenity space. These are related to living conditions, not specifically issues pertaining to character and appearance. Consequently, they have not been determinative in my decision.

Planning Balance and Conclusion

25. The Council have confirmed that there is a shortfall in their 5-year housing land supply, so it is necessary for me to apply Paragraph 11 of the Framework. Paragraph 11(d) indicates that permission should be granted, unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. The application of habitat site policies provides that to be the case here. As such, the proposal would not be the sustainable development for which Paragraph 11 indicates a presumption in favour.
26. Nevertheless, the proposal would provide an additional dwelling reasonably quickly, due to its small scale, in an accessible location. The Framework seeks to boost significantly the supply of housing and recognises the importance of small sites in meeting the housing requirement of an area. This along with the associated economic and social benefits a new dwelling can have on an area, would only attract limited weighting due to the singular additional home proposed.
27. However, housing provision should not come at the cost of significant harm to protected habitats, in this case the SPAsc, and as the proposal has failed to adequately mitigate for this harm, paragraph 180a) of the Framework states permission should be refused.
28. Whilst I have found the proposal acceptable in relation to its impact on the character and appearance of the area, and the Council have acknowledged a lack of harm in relation to living conditions, parking, highway safety, flood risk, air quality and its green charter, this absence of harm would be neutral in the planning balance. Consequently, when weighed against the policies in the Framework taken as a whole, I find that the adverse impacts of granting planning permission would outweigh the proposed benefits.
29. Therefore, for the reasons given above the appeal scheme would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. The appeal is, therefore, dismissed.

RJ Redford

INSPECTOR