



Appeal Decision

Site visit made on 16 April 2024

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 May 2024

Appeal Ref: APP/D1780/W/23/3329644

4 Orwell Close, Southampton SO16 9EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr H Singh against the decision of Southampton City Council.
 - The application Ref is 23/00083/FUL.
 - The development proposed is conversion of dwelling to form 1x 3-bedroom flat and 1x 1-bedroom flat.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. This Decision takes into account the revised National Planning Policy Framework (the Framework), published on 19 December 2023.

Application for costs

3. An application for costs was made by Southampton City Council against Mr H Singh. This application is the subject of a separate Decision.

Main Issues

4. The Council confirmed that it did not wish to defend the third reason for the refusal of planning permission, which concerned an absence of off-street vehicle parking for the proposed development. Therefore, the main issues in this appeal are:
 - Whether there would be suitable living conditions for the future occupiers of the two flats proposed, having regard to the provision of internal floorspace and private outdoor amenity space.
 - The effect of the proposed flats on European Protected Sites.
 - Whether the proposed flats would contribute towards a mixed and balanced community.

Reasons

Living conditions

5. The appeal property contains an enlarged two storey, mid-terrace dwelling. It is proposed to utilise around a third of the ground floor along with the first floor, to form a self-contained flat (flat 1). The submitted drawings show the living accommodation in flat 1 as including a lounge and kitchen on the ground floor, with three bedrooms, an office/study and a bathroom on the first floor. A second, smaller self-contained flat (flat 2) would be formed utilising around two thirds of the ground floor. The submitted drawings show the living

accommodation in flat 2 as including a kitchen, reception room and dining room, together with one bedroom an office/study and a shower room.

6. With a gross internal floor area (GIA) of around 85m², flat 1 would slightly exceed the minimum size set out in the Government's Nationally Described Space Standard (NDSS)¹ of 84m² for a 3-bedroom, 4-person dwelling on two floors. Similarly, with a GIA of around 57m² flat 2 would be in excess of the minimum size of 50m² for a 1-bedroom 2-person dwelling on one floor.
7. Nevertheless, in both flats the office/study would be of a sufficient size to accommodate a bed whilst still providing comfortable circulation space. The office/study rooms are also therefore capable of being used as bedrooms. There would be little to prevent the rooms from being so used. It is highly likely that in practice, the office/study rooms would be used as bedrooms. Therefore, it is not unreasonable to assess flat 1 against the NDSS minimum of 97m² GIA for a 4-bedroom, five-person dwelling. Similarly, it is not unreasonable to assess flat 2 against the NDSS minimum of 61m² GIA for a 2-bedroom, 3-person dwelling. It follows that the internal floorspace provided in both flats would fall below the minimum size required by the NDSS, in the case of flat 1 substantially so.
8. The deficiency in internal floorspace when assessed against the NDSS is not necessarily conclusive of unsuitable living conditions for future occupiers of the proposed flats. The bedrooms in flat 1, along with the reception room, kitchen and bedrooms in flat 2 would all be of a good size with sufficient outlook.
9. Even so, the lounge in flat 1 would have a limited floor area. There would be little available floorspace in which to accommodate the items generally associated with a lounge, including for example sofa chairs, a table, other furniture and a home entertainment system. Accommodating such items would leave minimal space for circulation. An inward opening door to the hallway and a need to maintain access to the kitchen is likely to further reduce the amount of useable floorspace in the lounge.
10. Furthermore, there would be little space in the kitchen of flat 1 for the occupiers to go about day-to-day activities such as preparing food or washing clothes. It is doubtful whether more than one person at a time would be able to conveniently use the kitchen, on account of its limited size. Consequently, the occupiers are likely to experience an uncomfortable, congested and restrictive feel when using the ground floor rooms in flat 1, which would be reinforced by the absence of a direct source of natural light to the lounge.
11. Whilst in flat 1 the lounge could be moved to the first floor, that would be unlikely to happen in practice, especially as it would then be inconvenient to access from the kitchen. In the absence of a dedicated dining area, it is highly likely that the lounge would also be used for taking meals. In any event, there would still be restrictive living space on the ground floor. In relation to flat 2, the occupiers are likely to experience an oppressive feel in the dining room, given the absence of a direct source of natural light. The above factors thus illustrate the deficiencies in the internal floorspace of the proposed flats.
12. Policy CS16 of the Council's Local Development Framework Core Strategy Development Plan Document (CS) requires a minimum of 20m² private amenity space for a flat or maisonette, with a minimum of 50m² private amenity space for a terraced home. Flat 1 would have direct, level access to space at the rear of the property with an area of around 35m². Flat 2 meanwhile would have direct access to space at the rear with an area of around 25m². There is no dispute that flat 2 would be provided with a sufficiently sized private outdoor amenity space. I concur.

¹ Technical housing standards- Nationally Described Space Standard.

13. The appellant argued that flat 1 should be treated as a flat or maisonette when assessing whether the amenity space would be of a suitable size. In my view however, it is more appropriate to focus on the likely needs of the future occupiers of that property. Flat 1 would have a rear garden around half the size of the existing dwelling, with a similar number of bedrooms. The number of bedrooms makes it highly probable that flat 1 would be occupied by a family with children. This is in contrast with flats and maisonettes, which are often aimed at occupation by single persons and couples.
14. Providing a private outdoor amenity space which, as with flat 1, would be much smaller than the minimum requirement for a terraced home in CS Policy CS 16, would restrict opportunities for the occupiers to undertake a range of outdoor activities normally associated with a private garden attached to a family home. This could include informal recreation, children's outdoor play, drying washing and cultivating plants. The lack of a sufficiently sized private outdoor amenity space reinforces the sense of a restrictive living environment that would be experienced by the future occupiers of flat 1.
15. Consequently, on account of the restrictive internal floorspace as well as, in respect of flat 1, the insufficient size of the private outdoor amenity space, suitable living conditions would not be provided for future occupiers of the proposed flats. This is in conflict with criterion in Policy SDP 1 of the City of Southampton Local Plan Review (LP), which requires development to not unacceptably affect the amenity of citizens, as well as failing to meet the minimum size for private amenity space required in CS Policy CS16. In addition, the proposed flats are inconsistent with the Framework as they would not create a place with a high standard of amenity for future users. In the absence of a more detailed explanation however, it is unclear how the proposed flats are inconsistent with the Council's Residential Design Guide.

European Protected Sites

16. The property is located in proximity to the Solent and Dorset Coast Special Protection Area (SPA) and the Solent and Southampton Water SPA/Ramsar site. The increase in nitrates released by wastewater from new residential development has been identified as leading to adverse impacts on these areas of nature conservation. It is not in dispute that the impacts of additional nitrates could be mitigated in the event the appeal were to be allowed and planning permission granted. I concur. In the absence of such mitigation however, the proposed flats would have an adverse impact on the areas of nature conservation.
17. In addition, recreational disturbance from the net increase in residential development has been identified as having adverse impacts on the Solent and Southampton Water SPA/Ramsar site. The Solent Recreation Mitigation Strategy seeks to mitigate the effects of new residential development on the area of nature conservation within the 5.6km 'zone of influence', through making financial contributions to the Solent Disturbance Mitigation Project to fund appropriate mitigation measures. In the absence of a completed Unilateral Undertaking which makes the required contribution towards access mitigation measures however, the proposed flats would have an adverse impact on the area of nature conservation.
18. The proposed flats would therefore conflict with CS Policy CS 22, which promotes biodiversity by, amongst other things, ensuring that development does not adversely affect the integrity of international designations and the provision of necessary mitigation measures. Furthermore, the proposed flats would contravene the Conservation of Habitats and Species Regulations 2017 and would be inconsistent with the Framework.

Mixed and balanced community

19. Flat 1 along with the smaller flat 2 would contribute to the provision of a mix of housing types for the local community. CS Policy CS 16 describes a family home as a dwelling of three or more bedrooms with direct access to useable private amenity space or garden for the sole use of the household. Since flat 1 would fall within that description, in practice there would be no net loss of a family home. There would be direct access from flat 1 to a useable private amenity space for the sole use of that accommodation. Neither the size of that amenity space nor the internal floorspace provided mean that flat 1 cannot be described as a family home for the purposes of CS Policy CS 16.
20. Therefore, the proposed flats would contribute to a mix of housing types and more sustainable and balanced communities, in accordance with CS Policy CS 16, as well as being consistent with the Framework in this respect. LP Policy SDP 1 is of limited relevance to this matter as it concerns development quality.

Other considerations

21. It is not in dispute that the Council are unable to demonstrate a five-year supply of housing land. In addition, the property is in a location which affords convenient access to local shops and facilities by walking and cycling and to frequent public transport services. These factors weigh in favour of granting permission for the proposed flats.

Planning Balance

22. In the absence of a five-year supply of housing land, the Framework presumption in favour of sustainable development applies. The proposed flats support significantly boosting the supply of housing. The proposed flats would be in an accessible location and would contribute to making more efficient use of land, as well as to providing a mix of housing types for the local community. Given the small scale of the proposed development, these factors carry moderate weight. There would also be a small and time-limited economic benefit during the construction phase, which is likely to generate some additional short-term employment.
23. On the other hand, the proposed flats would not provide suitable living conditions for the future occupiers and the adverse impacts on the areas of nature conservation have not been mitigated. The aforementioned harm carries significant weight and demonstrably outweighs the above benefits, when assessed against the policies in the Framework taken as a whole. Consequently, the proposed flats conflict with the Development Plan and there are no other considerations, including the Framework, outweighing that conflict.

Conclusion

24. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Stephen Hawkins

INSPECTOR