

Appeal Decision

Site visit made on 24 September 2024

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st October 2024

Appeal Ref: APP/D1780/W/24/3343921

41 Manor Farm Road, Southampton SO18 1NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr J Carter against the decision of Southampton City Council.
 - The application Ref is 23/01543/FUL.
 - The development proposed is construction of 2 storey rear extension to form 2 x 1 bed flats with bikes/bins and parking. Elevation alterations to side elevation of existing dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of the appeal, the appellant has provided an amenity space plan. This drawing was not submitted with the planning application but the Council and interested parties have had the opportunity to comment on it through the appeal process. Moreover, the plan does not materially affect the fundamental elements of the proposed development. Therefore, no injustice would be caused by considering the amenity space plan in my assessment.
3. Also, the appellant has submitted a unilateral undertaking pursuant to section 106 of the Act (the UU). The UU sets out the requirement for the owners of the appeal property to make a financial contribution towards the Solent Disturbance Mitigation Project aimed at mitigating the effects of the proposed development on the Solent's Special Protection Areas. I have had regard to the provisions of the UU in my assessment.
4. Since the appeal was lodged, the government has initiated a consultation exercise on revisions to the National Planning Policy Framework (the Framework) and the planning system. Also, the Secretary of State has published a written ministerial statement entitled "Building the homes we need" (the WMS). I have invited comments from the Council and the appellant on these documents and I have considered the responses.

Main Issues

5. The main issues are (i) the effect of the development on living conditions at the existing dwelling at the appeal premises in terms of light and outlook, (ii) its effect on the supply of family housing, (iii) its effect on the character and appearance of the host property and the local area, (iv) the effect of the development on living conditions at 43 Manor Farm Road (No 43) in terms of access to light, and (v) parking.

Reasons

The effect of the development on living conditions at the existing dwelling.

6. The appeal property (No 41) is a detached 2 storey dwelling with 3 bedrooms at first floor. Of these bedrooms, 2 have rear facing windows that provide light to the rooms and views towards No 41's back garden.
7. The proposed 2 storey high rear extension would be across the whole width of the main part of the existing house. It would include a flat at ground floor and a separate flat above. These residential units would be separate from the existing dwelling which would be retained as a 3 bedroom residence.
8. The extension would result in the blocking up of the bedroom windows in the rear of the property. Instead, windows would be inserted, one into each side elevation, to serve the rear bedrooms. Rather than face towards the back gardens, these windows would look out onto the side elevations of No 43 on one side and the building containing flats at 39 Manor Farm Road (No 39) on the other. As such, they would provide only a restricted outlook. Also, I envisage the windows would only provide a limited level of daylight into the bedrooms due to their close proximity to the neighbouring buildings.
9. The appellant suggests the bedrooms would normally only be used in the evening and at night time when outlook and access to light is not required. However, I expect the rooms would also be used during the day, potentially for significant periods of time. The restricted outlook and limited access to natural light would provide a poor environment for daytime living activities. Also, I am unconvinced that the proposed windows would provide a similar level of light and outlook compared to a well-positioned high-level rooflight. In any event, there is no substantive evidence before me to show that bedrooms only served by rooflights are commonly found or that they provide a satisfactorily living environment as claimed.
10. The appellant suggests the rear windows could be blocked up and new side windows inserted under permitted development rights as a fallback in the event of the appeal being dismissed. However, even if I were to accept this suggestion, such works would result in the rear bedrooms providing a significantly reduced level of light and outlook compared to the existing situation. I see no reason why any owner of No 41 would wish to carry out works that would unnecessarily diminish the living environment of the bedrooms in the property. Therefore, I find the suggested fallback position is no more than a theoretical possibility. Consequently, it attracts little weight in my assessment and fails to justify the reduction in the quality of the living conditions at the existing dwelling.

-
11. For these reasons, I conclude the development would cause harm to the living environment at No 41 through a loss of outlook and access to natural light. In these regards, it would not accord with policies SD1 and H7 of the City of Southampton Local Plan Review 2015 (LPR). Amongst other things, these look for new development to not unacceptably affect amenity and to provide the highest standards of quality. Also, it would be at odds with the Council's Residential Design Guide 2006 (RDG), which at paragraph 2.2.1 seeks to ensure development maintains natural light and outlook for occupants of existing homes.

Supply of family housing.

12. Policy CS16 of the Council's Core Strategy Development Plan Document Amended Version dated 2015 (CS) sets out the aim to provide a mix of housing types and more balanced and sustainable communities. To achieve this aim, the loss of family homes is to be avoided unless there is an overriding policy justification. For the purpose of CS policy CS16, a family home is a dwelling of 3 or more bedrooms with direct access to useable private garden for the sole use of the household.
13. The development would retain the 3 bedroom dwelling. Also, the aforementioned amenity space plan shows how the back garden could be sub-divided so the house and 2 new flats would each be provided with its own garden space. However, the erection of the extension would take away the direct access from the house onto the back garden. Instead, occupants would need to walk down a passageway to the side of the property in order to get to the garden from the front unit. Furthermore, there would be no views of the back garden from the house as the extension would effectively block any line of sight. This would discourage the use of the garden by occupants of the house, particularly those that require views in order to supervise children.
14. Moreover, the windows in the proposed first floor flat would overlook at close quarters the whole of the back garden. I am unconvinced that fencing or another means of enclosure could be provided so as to ensure a private space for the occupants of the house.
15. For these reasons, I conclude the development would result in a loss of a family home as defined under CS policy CS16. As such, the development would be contrary to this policy.

Effect on the character and appearance of the host property and local area.

16. The appeal site lies in a predominantly residential area. Dwellings tend to vary in design, age and style but most are 2 storeys high and face the street. Also, they are generally similar in size, although No 39 and the adjoining 37 Manor Farm Road (No 37) are older and slightly larger properties. No 41 is a 2 storey house of a fairly simple form that conforms with the general characteristics of the locality.
17. The proposed extension would be to the rear and so it would avoid any significant effect on the street scene. However, it would be seen from the neighbouring properties, particularly from the rear of No 39 and No 43.

-
18. From these vantage points, the proposed extension would appear as large as the existing house as it would have a similar height, depth and width. It would not be smaller than the original dwelling and it would not appear subordinate. Despite, the inset from the side boundaries and pitched roof, the extension would subsume the rear elevation of the house. In these regards it would be contrary to the provisions of 2.3.1 and 2.3.2 of the RDG.
 19. The proposal would result in No 41 having a similar depth and width as Nos 39 and 37 and so the overall mass of the building would not be entirely unusual to the area. However, it would seem that Nos 37 and 39 have not been significantly enlarged since originally built. I am referred to no other local property that has been enlarged to the extent proposed under the appeal scheme.
 20. The extension would have a localised visual effect with views largely restricted to vantage points on private land. Even so, where it is seen, it would be evident that the extension does not respect the original building in terms of its size. The use of matching materials would not address the unsympathetic scale of the development.
 21. For these reasons, I conclude the proposal would be harmful to the character and appearance of the host building and the local area. In these regards, it would not accord with LP policies SDP7 and SDP9 and CS policy CS13. Amongst other things, these require design of a high quality and development that respects the scale of existing buildings and its surroundings.

Effect on living conditions at No 43.

22. The proposed extension would be seen from No 43 over an existing fence on the side boundary. The addition would be set off the boundary although it would project significantly beyond the current rear elevation of No 41 and the back of No 43. Also, the extension would be 2 storeys high and set on slightly higher land than No 43.
23. The appellant states the extension would not cross a line taken at 45 degrees from the nearest ground floor rear window at No 43. If accepted as being correct, the development would therefore accord with the requirement set out at paragraph 2.2.11 of the RDG. However, the Council dispute the appellant's claim in these regards. Regardless of the parties' views on the matter, I consider that compliance with the 45 degree code should not be determinative on this issue as the RDG provides guidance rather than adopted policy. Instead, it is appropriate to treat this issue as a matter of planning judgment.
24. On my visit, I saw that the nearest window in No 43 to No 41 forms part of a bay. This window is angled towards the appeal site and I would envisage the extension may block direct morning sunlight from reaching it at certain times of the year. However, the level of overshadowing to the other fenestration in the bay is likely to be insignificant as this faces either towards the back garden or away from No 41. The bay includes a glazed door that provides an acceptable level of natural light into the room that it serves. The development would not meaningfully restrict light from entering into No 43

through this glazed door or through the window to its side and away from No 41.

25. I also envisage the extension would, at times, block direct sunlight from reaching a patio area near to the rear wall of No 43. However, this is only a small corner of a large garden. Also, light access to the patio is already affected by the house at No 43, the side wall of the garage to No 41 and a fence and bush on the common boundary. The position of the extension set away from the boundary would help ensure no significant additional overshadowing of No 43's back garden compared to the existing situation.
26. For these reasons, I conclude the development would avoid unacceptable harm to the living conditions at No 43 by reason of loss of light. In these regards, the development would accord with LPR policies SD1 and SDP9 as well as CS policy CS13. These seek to ensure development respects the amenity of surrounding properties. This conclusion is a neutral factor in my overall assessment of the appeal.

Parking

27. LPR policy SDP5 states that planning permission will only be granted where development provides no more car parking than the maximum as stated in adopted standards. CS policy CS19 also says parking for development should have regard to the Council's maximum standards.
28. Table 1 in the Council's Parking Standards Supplementary Planning Document 2011 (Parking SPD) says that for 1 bed residential units there shall be a maximum provision of 1 space. For 3 bed units the maximum is 2 spaces. As such, LPR policy SDP5 and the Parking SPD Table 1 indicate the development should provide no more than 4 spaces to serve the proposed 3 bed unit and the 2 single bedroom flats. The submitted plan indicates 4 spaces would be provided to the front and side of the house. As such, the plan indicates parking in accordance with maximum standards.
29. There is concern that the layout of the parking spaces and their relationship with the proposed bin store would mean that in practice it is unlikely that 4 vehicles would be able to park on the site at any one time. From my observations it seems as though 4 cars could potentially be parked to the front of the site, particularly if part of the existing garage is removed as indicated. This may require a degree of management on how bins are stored and put out for collection of waste but this matter could be reasonably addressed through the imposition of a planning condition.
30. In any event, the Parking SPD sets maximum parking standards and LPR policy SDP5 does not preclude development that provides less than the maximum requirement. Indeed, note 2 under paragraph 4.2.2 of the Parking SPD explicitly states that provision of less than the maximum parking standard is permissible. The same note 2 also says that developers must demonstrate that the amount of parking provided will be sufficient. However, I am taken to no guidance within the Parking SPD or elsewhere that explains how the appellant is to demonstrate sufficient parking. The appellant is not explicitly relying upon street parking to serve the development and so criteria as set out in table 2 of the Parking SPD is irrelevant.

-
31. I note the concerns from local residents over the demand for street parking and the evidence on how this has caused the obstruction of driveways. However, it is inappropriate to assume the occupants of the development and visitors would exacerbate these problems, particularly as the proposal includes space for on-site parking in line with the Council's maximum parking standards.
32. For these reasons, I conclude the development would provide for appropriate parking. In these respects, it would accord with LPR policy SDP5 and CS policy CS19. Acceptability in these regards is a neutral factor in my overall assessment.

Other considerations and planning balance.

33. I have found the proposal would not accord with development plan policies in respect of the first 3 main issues. It follows to consider whether any factors exist that indicate granting planning permission contrary to the development plan.
34. According to the submitted delegated report, the Council is unable to demonstrate a 5 years' worth supply of housing sites against its housing targets. The shortfall is described as relatively small although no need and supply figures have been submitted. In any case, paragraph 11(d) of the Framework is applicable. It is accepted that the circumstances as set out in paragraph 11(d)(i) do not apply. As such, it follows from paragraph 11(d)(ii) to consider whether the adverse impacts of allowing the development would significantly and demonstrably outweigh the benefits, having regard to the policies of the Framework taken as a whole.
35. The proposal would provide more housing in an appropriate urban location, near to shops and facilities and bus stops. The definition of previously developed land as set out in the Framework explicitly excludes land in built-up area such as residential gardens and so I am unconvinced the proposal would constitute the more efficient use of a brownfield site. Even so, it would boost the supply of housing and help address an acknowledged shortfall in land for residential development. In these regards it would bring social and economic benefits and would accord with aims within the Framework and with the tone of the WMS. The provision of 2 units would be a small addition to the housing stock. Nevertheless, the benefits of the scheme overall attract moderate weight.
36. The provisions of CS policy CS16 on the retention of family homes are not reflected in the Framework and so the identified conflict with this policy attracts limited weight. The Framework seeks development of high quality design that is sympathetic to local character, although I am mindful of the localised visual effect of the proposed extension. Consequently, I attach modest weight to the identified harm to the character and appearance of the host property and the area.
37. However, at paragraph 135 (f), the Framework states that decisions should help create places with a high standard of amenity for occupiers. At paragraph 139, it also says development that is not well designed should be refused. Therefore, the poor living environment that would be provided in

the retained dwelling as a result of the proposal attracts significant weight in my assessment.

38. Overall, I find the harm arising from the scheme would significantly and demonstrably outweigh its benefits when considered against the policies of the Framework. As such, the presumption in favour of granting permission as set out at paragraph 11 of the Framework does not apply. Furthermore, I find the benefits of the proposal and other factors in support of the scheme provide insufficient justification to grant planning permission contrary to the development plan.

Other Matters

39. The Council has raised concern that the development would have likely significant effects on the Solent and Dorset Coast Special Protection Area (SPA), the Solent and Southampton Water SPA/Ramsar site and the New Forest Special Area of Conservation/SPA/Ramsar site. Various suggestions are made on how the effects of the development could be mitigated. However, there is no need to consider this matter further as I am minded to dismiss the appeal for other reasons. A finding that the development would safeguard the integrity of the various protected sites would not affect my overall conclusion on the appeal.

Conclusion

40. For the reasons given above, I conclude that the appeal should be dismissed.

Jonathan Edwards

INSPECTOR