



Appeal Decision

Hearing held on 10 February 2009
Site visit made on 10 February 2009

by **R J Marshall** LLB Dip TP MRTPI

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
26 February 2009

Appeal Ref: APP/D1780/A/08/2086673 238, Weston Lane, Southampton, SO19 9HL

- 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 Keycare Developments against the decision of Southampton City Council.
- The application Ref 08/00612/FUL, dated 28 April 2008, was refused by notice dated 8 September 2008.
- The development proposed is described as "Redevelopment of the site. Erection of a 3 storey building (including accommodation within the roof space) to provide 10 flats (6x1 bedroom and 4x2 bedroom flats) with associated parking following demolition of the existing building".

Decision

1. I dismiss the appeal.

Procedural matters

2. The application description given above differs from that on the application forms. It is, however, as agreed between the Council and the appellant after the application was submitted.
3. The Council raised no objection to the appellant seeking to substitute plan 7750 (R1) 100, submitted with the application, with revision A of that plan. This plan accords with the appellant's landscaping plan and more accurately represents what is proposed. I shall determine the appeal on the basis of the proposal as so amended as to do so would not be detrimental to anyone with an interest in the appeal.
4. The appellant submitted a signed and dated Unilateral Undertaking. This overcomes the Council's concern that the proposal failed to "mitigate against its direct impacts" on various open space, transportation and highway matters.

Main issues

5. The main issues in this appeal are:

first, the effect of the proposed development on the character and appearance of the surrounding area;

second, whether the location and extent of on-site amenity space would provide satisfactory living conditions for occupants of the proposed scheme;

third, whether the proposed on-site parking levels would give rise to on-street parking detrimental to public amenity; and

fourth, the effect on the living conditions of those at No. 1 Newtown Road with special reference to privacy, loss of light and visual impact.

6. The above issues differ slightly from those I gave. The fourth issue is added in light of all I heard and saw. Finally, although I no longer need to consider whether the Unilateral Undertaking meets the Council's concerns, Circular 05/2005 indicates that an obligation is only necessary to make a proposed development acceptable in planning terms. Thus, aside from the main issues I shall assess the weight to give to the Undertaking in light of this.

Reasons

Character and appearance

7. The appeal site lies in a generally attractive and long established residential area. It is located on one corner of a crossroads formed by Weston Lane and Newtown Road. The site is a larger plot than others nearby. It contains a 1930s style detached house set well back from the road junction and with a large garden.
8. The proposed development would replace this house with a more substantial property of 10 flats at a density of approximately 140 dph. This would be higher than the minimum density figures of between 50-100 dph that the Council considers appropriate for such areas. However, this is a minimum rather than maximum standard. I see no in principal objection to a higher density, especially given Government Guidance on making the best use of urban land, provided the proposal is otherwise satisfactory.
9. The density of the proposed development would be notably higher than that in the locality. However, this is in part because the surrounding area comprises houses rather than the flats proposed. It is not of itself indicative of harm.
10. The Council's Supplementary Planning Guidance on Residential Design says that the footprint to plot ratio of new dwellings should be similar to those nearby. However, regarding the impact of the proposed building on the character and appearance of the area I find no harm in the fact that it would occupy a greater area of the site than much nearby development. In part this is because the crossroads location of the site provides scope for a slightly more intensive development that would provide added visual interest. For the same reason, I have no objection to the roof form proposed, which with its flat roof elements and dormer windows, would be slightly more bulky than the roofs of nearby properties.
11. Adding to the acceptability of the proposal in terms of its visual impact is the fact that it would accord well with the overall height and eaves line of adjoining properties. Moreover, the fact that the proposed development would face onto 2 roads is handled well in visual terms. The most prominent part of the development seen from Newtown Road would be a forward projection reflecting the style, proportions and design of adjoining properties in this road. By contrast, closer to the road junction and facing Weston Lane, the proposed development would reflect the more varied style of properties along this road.

Unlike the Council I see no objection to the proposed development having a lengthy ridge line parallel to both roads, for this is a feature of the shops opposite in Newtown Road and some other house along Weston Lane.

12. The proposed development would result in the loss of an extensive boundary hedge along both road frontages. However, its poor condition lessens its attractiveness. Given the adequate scope for frontage planting on the site, and the substantial well wooded park opposite, there would be no harm to the current verdant appearance of the area.
13. With the current extent of hard-standing on the site and locally I have no objection to the extent of hard-standing proposed. The proposed bin and cycle stores would be unobtrusively located well back from the highway.
14. I conclude that the proposed development would be appropriate in its context and even provide a modest improvement to the character and appearance of the surrounding area. As such there would be no conflict with Policies SDP1, SDP7, SDP9 and H7 of the City of Southampton Local Plan Review (2006).

On site amenity space provision

15. The proposed development would provide approximately 24 m² of garden space per flat. This is subject to that calculation including landscaping in the garden area. Unlike the Council I see no reason not to do so as landscaping is often a feature of gardens. On this basis the proposed development would easily comply with the Council's Residential Design Guide requirement for 20m² of garden space per flat.
16. I agree with the Council that those areas of garden between the proposed building and the 2 adjoining roads are unlikely, due to lack of privacy and traffic noise, to be greatly used for many recreational purposes. However, I do not read the Council's guidance as being that the full 20m² of garden space per flat should be usable in this way. For development of the type and scale proposed there would be adequate usable space on the remainder of the proposed garden area. This area would not be so substantially shaded by trees, or affected by the proposed bin and cycle store, as to be unacceptable for this purpose. Moreover, in determining the level of usable garden space required regard may be had to the substantial public park nearby. Although separated from the appeal site by a busy road it would be readily accessible to those in the proposed development.
17. I conclude that the location and extent of on-site amenity space would provide satisfactory living conditions for occupants of the proposed scheme. There would be no conflict with Local Plan Policy H7.

Car parking and public amenity

18. Local Plan Policy SDP5 seeks to discourage the use of the car by reducing car parking levels. It does so by saying that planning permission will only be granted for new development that provides no more than the maximum parking spaces set out in the adopted standards. These standards provide a maximum requirement for 6 car parking spaces for development of the proposed scale in areas such as this. With only 3 car parking spaces proposed in this scheme the Council accepts that this Policy would be complied with.

19. Given the above, and the fact that the Council is satisfied that a traffic regulation order may be imposed to restrict parking forward of the site in the vicinity of the road junction, there is no professional highways objection to the proposal.
20. However, the Council is concerned that the limited number of parking spaces on site would result in on-street car parking on the 2 adjoining roads that would displace existing residents' parking to the detriment of their amenities. However, there is no legal right for a space to park on the public highway. Moreover, there is no substantial evidence to support the concerns of the Council or local residents that the 2 adjoining roads are so heavily parked up that there would be the harm alleged. From what I saw, at school opening and closing times, there is extensive parking on these roads. However, in the daytime beyond these short periods there was little on-road parking. I appreciate that I obtained only a snapshot view. However, it supports the appellants' contention rather than that of the Council and local residents.
21. I conclude that the proposed on-site parking levels would not give rise to on-street parking detrimental to public amenity. There would thus be no conflict with Local Plan Policy SDP1 in so far that it seeks to protect residents' living conditions.

Neighbour's living conditions

22. The proposed development would have a notably lengthy flank wall at 2-storey height running along a substantial length of the side garden boundary with No. 1 Newtown Road. This wall would be close to the boundary and just under 5 metres from the side elevation of No. 1.
23. Within the side elevation of this neighbouring house and facing the appeal site is, at ground floor level, a patio window. This is the only window serving the neighbour's lounge. To one side of this is the sole window to a kitchen which is partly open to the lounge. Above the patio window is a bedroom window facing the appeal site.
24. Outlook from the neighbour's lounge and kitchen windows is already restricted to some degree by a boundary hedge. However, the additional height of the proposed development in such close proximity to the boundary would be far more oppressive and cause the proposed development to appear over-dominant and intrusive. Moreover, although evidence points towards there being no unacceptable loss of sunlight, the height, length and proximity of the proposed development may well cause unacceptable loss of daylight to the neighbour's lounge and kitchen. There is no substantial evidence to the contrary.
25. At first floor level in the proposed development a bedroom window in the side elevation facing No.1 would look out onto the neighbour's bedroom and lounge window. Although the windows would not be directly aligned the angle of vision would be sufficiently direct to cause unacceptable loss of privacy.
26. I appreciate that harm to neighbour's living conditions was not a ground on which the Council refused permission and that the Council Officer's report recommending permission discounted the possibility of such harm. However, that erroneously said that there were no habitable room windows in the

neighbour's side elevation facing the appeal site. I have also taken into account the fact that some of the nearby Victorian/Edwardian houses appear to have a similar relationship of windows and elevations. However, that does not justify perpetuating such poor conditions.

27. I conclude that the proposed development would harm the living conditions of those at No. 1 Newtown Road with special reference to privacy, loss of light and visual impact. As such it would conflict with Policies SDP1 and SDP9 of the Local Plan.

Other matters

Unilateral Undertaking

28. The Unilateral Undertaking provides for contributions towards highway works, open space, play space and sports pitches. It also requires that occupants of the proposed development be provided with sustainable travel vouchers, that damage to the highway during construction be remedied or paid for and that payment be made to monitor the agreement.
29. The highway works contribution is broken down into: a) contributions to improve the sightlines at the adjoining road junction and for a Traffic Regulation Order to provide parking restrictions on those parts of the highway onto which the site fronts; and b) a strategic transport contribution for projects beyond the site and its locality in transport corridors serving the development.
30. From what I heard, and in the absence of substantial evidence to the contrary, I am broadly satisfied that the contributions under (a) above are required to make the proposed development acceptable. Regarding (b) above, the Council's Supplementary Planning Guidance (SPG) on Planning Obligations indicates that all development that generates additional trips should contribute towards strategic transport projects to address its impact in the wider area. It does so by reference to the Local Transport Plan and sets a threshold of 5 dwellings and over for contributions being required. In the absence of evidence to the contrary I am broadly satisfied that this justifies the strategic transport contribution offered.
31. The Undertaking says that a sustainable travel voucher shall be provided to the occupant of each flat. This may be spent on a bus season ticket, a cycle or a car club. However, given the other contributions that would be made, and without greater justification related to the Development Plan and the Council's SPG, I am not satisfied that this is required to make the proposed development acceptable. As for remedying damage to the highway, this could be required under other legislation. The Undertaking on this is thus unnecessary.
32. Local Plan Policy CLT5 read with the Planning Obligations SPG requires open space/sports pitch contributions in lieu of on-site provision for development of 5 units or over unless there is already adequate provision locally. The Undertaking provides money to improve a nearby open space. In the absence of evidence that provision in the locality is adequate this would seem to comply with the Council's guidelines and Circular advice. Given Local Plan Policy CLT6 and the Council's SPG, and the lack of on site play space in the proposed scheme, contributions for the improvement of an off-site play space meets a justified need.

33. On the above, I place substantial weight to the Undertaking in so far that it meets legitimate planning concerns. However, I give limited weight to it when this is not the case. Nor have I attached much weight to the agreement to pay for the Council to monitor the Undertaking. I can find no support in Circular 05/2005 for such payments.

Other matters generally

34. There is substantial local concern on highway safety. However, there is no professional support for this and from what I heard and saw there would, if anything, be some benefit to highway safety from improved sight lines. Evidence from the Council's ecologist shows that wildlife concerns could have been dealt with by condition.

Conclusion

35. In many respects the proposed development would be entirely satisfactory and in some ways as outlined, beneficial. It would also assist in providing additional housing in a sustainable urban location. However, none of this outweighs the harm identified on the fourth issue.

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

RJ Marshall

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr R Henderson MA hons MRTPI	Of Ken Parke Planning Consultants
Mr C Shipperley	Of appellant company
Mr J Pickerill	Of appellant company

FOR THE LOCAL PLANNING AUTHORITY:

Miss J Turner BSc MSc	Senior Planning Officer
Mr Harvey BSc	Trainee Planner
Mr S Mackie BA	Planning Agreements Officer

INTERESTED PERSONS:

Mrs Chase	1, Newtown Road, Southampton SO19 9HX
Cllr Cunio	6, Julian Road, Sholing, Southampton SO19 8LZ

DOCUMENTS

- 1 Letter of notification of hearing and those notified.
- 2 Appellant's Unilateral Undertaking.
- 3 Local Plan Policy SDP13.
- 4 Extract from Council's Residential Design Guide.
- 5 Extract of Local Plan parking standards.
- 6 Council's SPG on Planning Obligations.