



# Appeal Decision

Site visit made on 20 May 2011

**by David Fitzsimon MRTPI**

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

**Decision date: 20 June 2011**

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**Appeal Ref: APP/D1780/A/11/2148090**

**36 Dell Road, Bitterne Park, Southampton SO18 1QS**

- 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 E Sumra against the decision of Southampton City Council.
  - The application Ref 10/00454/OUT, dated 23 April 2010, was refused by notice dated 31 August 2010.
  - The development proposed is the redevelopment of site to provide 1 no. 3 bed flat and 4 no. 1 bed flats together with parking and communal amenity area.
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## Procedural Matter

1. The application was made in outline with the matter of landscaping reserved for subsequent consideration. I have determined the appeal on this basis.

## Decision

2. I dismiss the appeal.

## Main issues

3. The main issues in this case are as follows:
  - The effect of the proposal on the character and appearance of the local area;
  - Whether adequate living conditions would be provided for future occupiers of the proposed flats in terms of access to natural light, outlook and useable amenity space; and
  - Whether the Council's requirements relating to public open space, affordable housing, and transport infrastructure pass the tests of Circular 05/2005 and Regulation 122 of the Communities Infrastructure Levy Regulations 2010 (CIL Regulations).

## Reasons

### *Character and appearance*

4. The appeal relates to a vacant infill plot, which has previously accommodated a dwelling. It lies within a predominantly residential area, which is home to a range of houses and bungalows in a variety of designs.
  5. The proposal follows an earlier scheme which was dismissed by a colleague Inspector due to matters relating to ground stability and outlook. The building would accommodate five flats, but its scale, height, form, design and external materials would give it the appearance of a traditional pair of semi-detached houses with roof dormers. This illusion is assisted by the fact that only two car
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parking spaces and a refuse bin area would be sited within its frontage. Although the building would be positioned slightly further forward than the front elevation of the neighbouring dwelling, No. 39 Dell Road, this would not look out of place, as the building line within this residential road is not strictly defined.

6. I am not aware of any other flatted developments along Dell Road and I am mindful that the building would have a larger footprint than the neighbouring dwellings. Nevertheless, other properties within Dell Road have large footprints. Like my colleague Inspector who considered the previous scheme which had a broadly similar but slightly narrower facade, I am satisfied that the overall density and scale of the building would sit comfortably within the site and its surroundings and it would not amount to over-development.
7. In light of the above factors, I conclude that the development proposed would not harm the character and appearance of the local area. In such terms, it is compliant with policies CS5 and CS13 of the adopted Southampton City Council Local Development Framework Core Strategy Development Plan Document (DPD), saved policy SDP7 of the adopted City of Southampton Local Plan Review (LP) and the Council's adopted Supplementary Planning Document titled '*Residential Design Guide*' (SPD).

#### *Living conditions*

8. The Council's SPD advises that a minimum of 20 square metres of amenity space should be provided for each flat. Whilst the total area of amenity space provided would satisfy this target, only two lower terraces, amounting to about 55 square metres, would be useable due to the topography of the site. Nevertheless, the SPD standard is simply a guideline, and the remaining steeply sloping terraces would provide visual amenity. Furthermore, not all apartment dwellers want or need a large amenity space. This is a lifestyle choice and the level of provision would be a factor to be considered by potential occupiers before any commitment to occupation. On this basis, I find the level of private amenity space within the development to be adequate.
9. I do, however, share the Council's concerns that the proposed remodelling of the site means the bedroom of the northern ground floor flat would have to be served by a lightwell, whilst the bedroom window of one of the first floor flats and the living room of the other would be close to the large expanse of a tall retaining wall which would run span the majority of the width of the site. Whilst this arrangement would provide adequate levels of natural light, it would result in a severely restricted outlook from these rooms. This would be very oppressive for future occupiers and it would be below a reasonable standard.
10. I therefore conclude that although adequate levels of amenity space would be provided by the development along with satisfactory levels of natural light to the flats, the outlook from some of the rooms of several flats would be substandard. In such terms, the proposal conflicts with policy CS13 of the DPD, saved policy SDP1 of the LP and the SPD.

*Requirements relating to public open space, affordable housing and transport infrastructure*

11. The Council's Supplementary Planning Guidance Note titled '*Planning Obligations*' (SPG) provides a template for the Council in setting and negotiating planning applications. This document was adopted in 2006 following public consultation and therefore I am able to attach significant weight to its content and requirements in reaching my decision.
12. The Council carried out an audit in 2005, which identified shortfalls in the quality and quantity of open spaces within the District. The SPG explains that even small developments can impact incrementally on public open space and recreation facilities, and it therefore has implemented a formula for calculating contributions to amenity open space, children's play space and playing fields. This is based on the mix of the proposed residential development and the number of units within it. To my mind, this is a well devised and evidenced based approach and I am satisfied that the figures quoted pass the statutory tests in Regulation 122 of the Communities Infrastructure Levy Regulations 2010.
13. The City Council's Housing Needs and Housing Market Survey (2005) and the South Hampshire Housing Market Assessment (2006) identify the affordability of homes across the region as a significant issue. The Council has explained that as at June 2010, over 13000 households were on the City Council's Housing Register and the average waiting time for a 3 bedroom house is currently 7 years. Consequently, the Council has adopted the target of achieving 20% affordable homes on developments of 5 to 14 units, which translates to one affordable unit to be provided within the development proposed. Against the need which has been demonstrated, and in the absence of any compelling arguments to the contrary, I consider that such a requirement would be fairly and reasonably related to the development proposed and that it passes the statutory tests.
14. The Council asserts that the transport system in Southampton is under an ongoing pressure, which new developments exacerbate. It argues that new residential development should contribute to measures which will mitigate the additional cumulative impact by promoting and improving alternative methods of transport other than the private car such as cycling, walking and public transport. Accordingly, the SPG indicates that developments of 5 or more residential units should either make financial contributions or provide specific highway improvement works.
15. The Council requires that the development delivers tactile and dropped crossings at Dell Road and Castle Road. No evidence has been advanced, however, to convince me that such provision would be fairly and reasonably related to the development proposed or necessary in order to make it acceptable, as required by the CIL Regulations. The Council also requires the payment of a standard charge based on the net additional trips likely to be generated by the development, with a cost applied which reflects the shortfall in funding for planned expenditure under the current Local Transport Plan. The Council has advised that the Strategic Transport Contribution would be utilised to support city wide strategic transport infrastructure projects located within the transport corridor which serves the development. I am satisfied that such

- a requirement would be fairly and reasonably related to the development proposed and that it passes the statutory tests.
16. Finally, the Council requires a Highways Condition Survey to assess the condition of the highway within the immediate vicinity of the development site prior to work commencing with a view to ensuring that any damage arising during the course of construction work is repaired at the cost of the developer. Whilst this seems a reasonable approach in principle, any damage caused to the highway within the vicinity of the site during construction works would not necessarily be attributable to the development. On this basis, and without specific details as to how such a survey would be monitored and enforced, I am not convinced that it passes the statutory tests.
  17. Having disputed the need for the above requirements, the appellant subsequently instructed a solicitor to draft a planning obligation to deliver them, with the exception of the affordable housing element which is not agreed. To my mind, as the site has not occupied a dwelling for some four years or so, the scheme clearly amounts to a net increase of five units and therefore triggers the requirements outlined above.
  18. A completed Unilateral Undertaking has not been submitted, and in these circumstances, I consider that the proposal would undermine the requirements of the SPG and the related policies of the development plan.

*Other matters*

19. In reaching my decision, I have considered the additional concerns raised by third parties in so far as they relate to material planning considerations. The proposal is supported by a Ground Stability and Geotechnical Assessment and in the absence of any technical evidence to the contrary, I share the view of the Council's Civil Engineering Team Leader that measures could be imposed to ensure the development would not compromise land stability. I am also satisfied that the development would not harm the living conditions of the occupiers of neighbouring properties in any way, given the scale of the building and its physical relationship to them. No trees of high amenity value would be removed to accommodate the development, and a landscaping scheme could provide enhancement.
20. The proposed development would provide turning facilities to ensure that vehicles could enter the highway in a forward gear, and visibility from the proposed access would be satisfactory. Whilst only two private car parking spaces would be provided, the site enjoys a sustainable location close to a bus route and local shops, services and schools, and I am mindful that national planning policy seeks to discourage car use. Furthermore, kerbside parking is unrestricted in this part of Dell Road, and it appears to be in plentiful supply. Whilst I accept that a degree of noise and disturbance would be generated during construction works, this would be a relatively short term impact, which could be minimised by the imposition of appropriately worded planning conditions.
21. The appellant has referred to other apartment developments within the local area including schemes on the former Save Service Station and Woodmill Heights on Woodmill Lane. I have little information about these developments and I do not know the planning circumstances behind them. In any event, I

have considered the appeal proposal on its individual merits which is one of the fundamental principles which underpins the planning system.

22. I am mindful that the scheme offers a number of benefits. It would significantly improve the appearance of an unkempt site, it amounts to the efficient use of land, it would increase the housing stock within the District and the building would incorporate the latest energy efficient technology. I also appreciate building a pair of dwellings on the site might not be financially viable due to the ground conditions, and that the Planning Officer recommended to the Council's Committee that planning permission be granted. Nevertheless, these, and all other positive aspects of the scheme neither alter nor outweigh the failings I have identified.

### **Overall Conclusions**

23. I conclude that the proposal would not unduly harm the character and appearance of the local area and the quality of the private amenity space and the level of natural light available to future occupiers of the flats would be adequate. Nevertheless, the outlook from some of the habitable rooms of a number of the flats would be oppressive as a result of the engineered solution to the topography of the site. Furthermore, the appellant has failed to address the reasonable public open space, affordable housing and transport infrastructure requirements which the development generates.

24. Accordingly, the appeal must fail.

*David Fitzsimon*

INSPECTOR