



Appeal Decision

Site visit made on 20 February 2013

by T M Smith BTP MRTPI

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

Decision date: 13 May 2013

Appeal Ref: APP/D1780/A/12/2186317

Rear of Elizabeth Court, Aberdeen Road, Southampton, S017 2LL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr J Kemmish against Southampton City Council.
 - The application Ref 12/01289/OUT, is dated 22 August 2012.
 - The development proposed is demolition of 30 garages to the rear of Elizabeth Court and construction of 4 houses with associated parking, cycle and refuse stores.
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Decision

1. The appeal is dismissed and planning permission is refused.

Application for costs

2. An application for costs was made by Mr J Kemmish against Southampton City Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application is made in outline with approval sought at this stage for access, appearance, scale and layout of the development but not its landscaping.
4. The Council has confirmed in its statement that had it been in a position to determine the application it would have been minded to refuse it citing two reasons which relate to the over-development of the site and insufficient information in respect of nearby trees.
5. Following the submission of the appeal, amended and additional plans were submitted which the Council has taken into consideration in its statement. The amendments relate to Dwellings 1 and 2 with changes proposed to the window openings, particularly to the rear, together with clarification of surface area calculations. Given the nature of the alterations and the rooms to which they relate, I do not consider the interests of other parties would be prejudiced and have therefore taken them into account in reaching my decision.

Main Issues

6. The main issues in this case are: the effect of the proposal on the character and appearance of the surrounding area; its effect on a protected tree adjacent the site; and whether the proposal would provide suitable living conditions for future occupiers having regard to outlook and amenity space.

Reasons

Character and appearance

7. The appeal site comprises some 30 garages set out in two parallel terraces located to the rear of the communal gardens of two blocks of flats known as Elizabeth Court. The garages are served by a narrow vehicular access between 1-6 Elizabeth Court and 44 Aberdeen Road. I observed that the garages appear unused and their condition varies to the extent that some are starting to appear dilapidated. Notwithstanding their varied condition, they are not causing harm to the character and appearance of surrounding area and unlike the appellant I do not consider that there is an overwhelming case for their redevelopment.
8. The surrounding area is predominantly residential and comprises a mix of mainly semi-detached and terraced two storey properties set back from the road. Deep and narrow gardens to the north and south of the appeal site provide a distinct and open character to the area. Breaks between the housing enable the depth and space between the houses to be viewed from the public highway. Whilst there are properties on Aberdeen Road to the south of the appeal site which feature smaller gardens these do not detract from character of the area. Having observed the area, I do not consider that backland development is a characteristic feature of the surrounding area. Nor have any comparable nearby developments been brought to my attention.
9. The proposal would take the form of a backland cul-de-sac with the four dwellings accessed off a small section of shared driveway. From the adjacent properties and their gardens, the proposed dwellings would appear as isolated and uncharacteristic intrusions in this open area which currently has no substantial buildings of a comparable scale. Consequently, the proposed houses would not be well related to existing dwellings or the pattern of development. Furthermore, although the dwellings would not be prominent in the street scene, nor would they be hidden from public view. They would be seen through gaps between the existing houses, including along the proposed access, and would also be evident from Priory Close to the east. They would appear incongruous and at odds with the surrounding area.
10. Furthermore, the proposal would fail to provide adequate levels of amenity space for the dwellings as required by the Council's Supplementary Planning Document (SPD)¹. This, combined with the lack of space to the front and rear of the proposed houses, would result in their appearing cramped which would be out of keeping with the character of the surrounding area.
11. A contributory factor towards the Council's concerns about overdevelopment of the site is the extent of proposed hard surfacing on the site. The precise amount is a matter of dispute between the parties. The extent of the hard surfacing is not specifically advanced by the Council within their statement and in any event, a strict adherence to the percentage in this instance, would not overcome my concerns with the proposal overall.
12. I note that the proposed fenestration to dwellings 1 and 2 has been amended in an attempt to overcome the Council's previous concerns which related to the proximity of the openings in the rear of these dwellings to the boundary and the fact that windows at first floor would prejudice any future development of the adjoining site. The latter was identified in a now superseded draft delegated

¹ Residential Design Guide – Final Approved Version – September 2006

report and is a matter no longer being pursued by the Council. The point the Council were seeking to make, which remains unaltered, was that the outlook from any new development should be derived from within its own curtilage and not borrowed from neighbouring land. I concur with this approach and deal with this in more detail below in my consideration of the potential effect on the living conditions of future occupiers. I consider that as a consequence of the proposed changes, the rear elevation of these two dwellings would appear contrived and out of keeping with the general appearance of dwellings in the locality.

13. In conclusion on this issue, I consider the proposal does not respond positively or integrate well with its surroundings and would harm the character and appearance of the area. It would therefore conflict with policies SDP1(i) and SDP12 of the Southampton LPR², policy CS13 of the Core Strategy as well as the Councils SPD.

Preserved Tree

14. Outside of the appeal site on the shared boundary of the adjacent social club car park and Nos 17-19 Priory Close is a mature Sycamore tree which is the subject of a Tree Preservation Order. The tree is a feature of the site and the immediate vicinity with views available of it to the east from Priory Close. It is located at the end of a row of back to back gardens which feature a number of trees. The Council considers that insufficient information was submitted with the application to establish whether any harm would be caused to the tree by the proposal, either as a consequence of the development itself or due to future occupier's pressures for its reduction or removal given its proximity to dwellings 3 and 4.
15. In order to overcome the Council's concerns, the appellant has submitted a tree report with the appeal. The report recommends that the tree should be removed. However, notwithstanding this recommendation, I consider that the tree makes a pleasant contribution to the character and appearance of the area. Its loss would cause further harm to the character and appearance of the area and could potentially prejudice biodiversity interests.
16. Accordingly, I find the proposal conflicts with saved policies SDP1(i) and SDP12 of the Southampton LPR together with policies CS13 and CS22 of the Core Strategy which, amongst other things, seek to ensure the retention of landscape features and that development produces a net gain in biodiversity.

Living conditions

17. The Council's SPD³ identifies minimum garden sizes dependant upon the type of property in the interests of the character of an area as well as to ensure practical use for future occupants. The gardens of two of the dwellings would fail to provide sufficient depth whilst all of them would fail to meet the required area standards. The shortfall would range from 10sqm to 30sqm which would result in the provision of a poor outlook as the rear boundary fence to dwellings 1 and 2 would be the dominant feature of the garden by reason of its proximity. The original scheme would provide a poor outlook from the first floor rear elevations of these dwellings, as the adjoining car park would dominate their view. I consider that the amendments, which include the provision of only

² City of Southampton Local Plan Review (LPR) 2006

³ Paragraphs 2.3.12 – 2.3.14 of the Residential Design Guide

rooflights in the bedrooms, would also offer a poor outlook and is reflective of the overall cramped nature of the proposed development.

18. For these reasons I conclude that the proposal would provide unacceptable living conditions for future occupiers of the proposed development contrary to saved policy SDP1(i) of the Southampton LPR. The proposal would also conflict with paragraphs 9 and 17 of the Framework which seek to improve the conditions in which people live as well as securing a good standard of amenity for all existing occupants of land and buildings.

Other Matters

19. The appellant argues that the scheme, in accordance with the National Planning Policy Framework (the Framework), would deliver economic benefits and, by reason of a lack of harm, would bring about all three dimensions of sustainable development. Furthermore, the appellant contends that the Council is expected to fail to meet its housing targets and references the Planning Annual Monitoring Report April 2010 – March 2011. Neither the appellant nor the Council provide any up to date evidence to substantiate or refute this matter. Accordingly, in the absence of this information, and having regard to paragraphs 14, 49 and 215 of the Framework, I shall proceed on the basis that the relevant development plan policies referred to above are consistent with the Framework. In the case of this appeal, the sustainability benefits in terms of housing delivery, job creation and economic growth do not outweigh that harm that I have identified which results in conflict with paragraphs 17, 56 and 64 of the Framework.
20. In light of the facts in this case, I do not consider that the revocation of the Regional Spatial Strategy for the South East alters my conclusions.

Conclusions

21. For the reasons above, and having regard to all other matters raised, the appeal is dismissed.

TM Smith

INSPECTOR