



Appeal Decision

Site visit made on 14 January 2014

by **C J Leigh BSc(Hons) MPHIL MRTPI**

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

Decision date: 3 March 2014

Appeal Ref: APP/D1780/A/13/2207164

Land to the rear of 28-64 Winchester Road and rear of 204-218 Warren Avenue, Southampton, SO16 6UL

- 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 Glen Sahota against the decision of Southampton City Council.
 - The application Ref 12/01923/OUT, dated 18 December 2012, was refused by notice dated 19 August 2013.
 - The development proposed is to construct a development of 14 flats.
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Application for Costs

1. An application for costs was made by Southampton City Council against Mr Glen Sahota. This application is the subject of a separate decision.

Preliminary matters

2. The application was made in outline with approval sought for access, appearance and layout.

Decision

3. The appeal is dismissed.

Main issues

4. The first main issue in this appeal is the effect of the proposed development on highway and pedestrian safety. The second main issue is whether contributions or other benefits are necessary to enable the proposed development to proceed consistent with the Council's strategy in respect of infrastructure and community facilities provision.

Reasons

Highway safety

5. The appeal site comprises an area of underused land that lies to the rear of the Winchester Road and Warren Avenue properties. Vehicular access to this land, and to the appeal site, is via a track that is taken from Warren Avenue. This track currently provides access to existing properties and runs adjoining the gardens, garages and parking areas for many of the Winchester Road properties.
 6. I am informed planning permission for the development of 14 flats on the appeal site was granted in 2008 (ref. 08/00095/FUL), which would have
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utilised this existing track for vehicular access and was subject to a condition and legal agreement that the access would be no narrower than 3.1m. The current proposal similarly proposes to use the existing track for vehicular and pedestrian access. An existing narrow footway running to Winchester Road would also be used for pedestrian access. The vehicular access would narrow to 2.8m for a length of 7.7m, due to land ownership restrictions. This width would allow vehicles to drive along the access, but the Council object to this narrowing since it would be less than the minimum width they seek, namely 3.1m.

7. The appellant states that the useable area of the access route might be wider in practice, due to the area of land outside the appellant's ownership being an open forecourt area. However, I do not accept that proposition since the owner of the adjoining land could choose to erect a physical boundary. Thus, I have treated the proposed development as not being able to provide an access road greater than the 2.8m width at its narrowest length.
8. The appellant draws my attention to the guidance in 'Manual for Streets' that states carriageway widths might be reduced to a minimum of 2.75m, but narrowing between 2.75m to 3.25m should be avoided in most cases. I concur with the appellant's observation that, in seeking a width of 3.1m as was the case with the 2008 permission, the Council do accept a narrowing of the access within this range can occur. The important matter to consider is whether the further narrowing proposed by the appellant over such a length of the access road would be harmful to highway safety.
9. The submitted drawings show the vehicular access would be upgraded to accept vehicular and pedestrian traffic, and signage would be provided along the access. A pedestrian refuge area would be provided within part of the narrowed area. I saw that visibility along the access road is good, due to the generally straight layout of the road. This will allow for vehicles to wait and pass at wider points on the road. I am mindful that the access road currently provides vehicular access for many properties at present and has the existing narrowing, and I have not been informed of any incidents along the access road whereby this narrowing has been hazardous to highway safety. Although there would be some increase in the number of vehicles using the access road as a result of the proposed development, this fact does indicate to me that users of the track can safely negotiate the dimensions and geometry of the track.
10. Furthermore, as noted above, the proposals show an improvement to the surfacing of the track and signage. I consider such measures would only lead to an enhancement in the ability of drivers to safely negotiate the track without leading to highway safety.
11. The access would be a shared route for vehicles, cyclists, pedestrians, and those with mobility problems. The Council's concern with the width of the access extends to potential conflict between these users along the narrowed stretch of the access. This is an important matter to consider, given that the flats would not have residents' parking, although visitor parking would be provided; the appeal site is located in a sustainable location with a range of facilities and public transport routes nearby, so I concur that the level of car parking proposed is appropriate. I thus agree that a safe route is needed to ensure future residents would feel secure in using the access by foot or cycle.

12. For similar reasons to the above, I consider the geometry and visibility of the access, combined with the proposed signage, refuge area and surfacing (which the appellant states would include surface delineation for users), would ensure a shared surface access would be safe for all users. The access route would also be lit. These matters would lead to an upgraded shared access route that provides a good standard for all existing users and for future occupants of the dwellings, and would ensure those occupants have a reasonable opportunity to walk and cycle from their homes.
13. On the main issue it is therefore concluded that the proposed development would not be harmful to highway safety and so be consistent with Policy CS13 of the Southampton Core Strategy 2010, Policies SDP1, SDP4 and SDP11 of the City of Southampton Local Plan Review 2006, and guidance contained in the Council's Residential Design Supplementary Planning Document 2006, which amongst other matters seek to ensure safe access for all and parking arrangements are provided in new developments.

Infrastructure provision

14. The Council's second reason for refusal related to the absence of a planning obligation to make provision for contributions towards the provision/enhancement of infrastructure, site-specific highways measures and affordable housing contribution. These objectives are supported by Policies CS15 and CS25 of the Core Strategy, with detail contained in the Council's adopted Developer Contributions Supplementary Planning Document (SPD) (April 2013).
15. The requirement for a contribution towards site-specific transport measures was not disputed by the appellant. A viability appraisal was submitted with the planning application that concluded the proposed development would not be viable with the required affordable housing contribution. The Council commissioned an independent review of this assessment at the appeal stage which concluded, in summary, that the proposed development would not be viable with a full contribution towards affordable housing but that a reduced contribution was appropriate. The appellant agreed with this conclusion and submitted a Unilateral Undertaking that included the required affordable housing contribution, in addition to the site-specific transport contribution.
16. The Council also sought in any planning obligation measures to secure an off-site highway condition survey, a slope stability report and a refuse management plan. The sole access road to the appeal site is relatively long and serves existing properties, and so it is reasonable for measures relating to a highway condition survey of roads in the vicinity and refuse management to be provided in these circumstances. The appeal site is also steeply sloping and so measures to address this are necessary. The submitted Undertaking includes wording to address these details. Finally, the Council's second reason for refusal also referred to any planning obligation setting out a requirement to provide an amended access. The appellant's Undertaking does not include this and, as I have concluded on the first issue that the proposed access would be acceptable, I concur there is no need for such wording.
17. The planning policy framework set out above provides a strong basis for demonstrating the need for new facilities and contributions arising from the proposed dwellings. The requirement for site-specific transport measures and an affordable housing contribution fairly related to the proposal has been

robustly addressed. The Council's request for contributions through a planning obligation as sought therefore satisfies the tests of paragraph 204 of the National Planning Policy Framework.

18. The proposed development is also liable for the Council's local charging schedule for the Community Infrastructure Levy (CIL), as set out in their adopted Community Infrastructure Levy Charging Schedule Development Plan Document (July 2013). The Council do not seek contributions within a planning obligation that are addressed through the CIL, and the submitted Undertaking accordingly does not include such matters.
19. The Council's request for a planning obligation is therefore necessary, directly related to the development and fairly and reasonably related in scale and kind. The request therefore passes the statutory tests.
20. The Council, though, raise concerns on a number of details in the Unilateral Undertaking submitted by the appellant and consider these would lead to difficulties of its enforceability. The Council's comments include matters regarding the ownership of the land and the signatories, enforcing the provisions for the waste management plan and any actions necessary in relation to the stability of slopes, and the date upon which the obligation would take effect. I share the Council's concerns that the drafting of the Undertaking in a number of respects are of sufficient substance to make it uncertain that the payments and measures contained in the obligation would be made or would be enforceable.
21. Therefore, as it stands, the proposed development would undermine the Council's strategy in respect of infrastructure and affordable housing provision, and the delivery of measures to mitigate any impact of the proposal. This would be contrary to the Policies and the SPD referred to earlier.

Other considerations

22. The area upon which it is proposed to erect the new flats is an underused parcel of land, which slopes steeply to the north and Shirley Pond Park. The proposed development shows a layout and appearance which would be appropriate in scale and design for the site and landform. A reasonable degree of spaciousness would be retained around the new buildings and they would assimilate well into the area. This includes in views from Shirley Pond Park and the wider area.
23. The distance retained between the proposed dwellings and existing properties would ensure no loss of privacy or overbearing impact upon adjoining residents. The increase in the use of the vehicular access would not lead to a material change in the level of disturbance for existing residents.

Conclusions

24. Although I have found in favour of the proposed development on a number of issues, the conflict that arises from the second main issue is sufficient to outweigh all other findings. Therefore, for the reasons given and having regard to all other matters raised, it is concluded that the appeal should be dismissed.

C J Leigh

INSPECTOR