



Appeal Decision

Site visit made on 15 July 2019

by **S. Rennie BSc (Hons), BA (Hons), MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 October 2019

Appeal Ref: APP/D1780/W/19/3220123

182-184 Bitterne Road West, Southampton SO18 1BE

- 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 Mr Andrew Jones (A Head of Time Estates Ltd) against the decision of Southampton City Council.
 - The application Ref 18/00358/FUL, dated 26 February 2018, was refused by notice dated 12 July 2018.
 - The development proposed is the erection of a 3 storey building to provide a ground floor retail unit and 2x2 bed flats on upper floors with associated parking and cycle/refuse storage, following demolition of existing building.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Reason for refusal No 2 on the Council's Decision Notice referred to parking, with there being an incomplete car parking survey. The appellant has acknowledged this and submitted more information with this appeal. On this basis, the Council has withdrawn their reason for refusal on this matter and is therefore not a main issue that I will assess further.

Main Issues

3. The main issues are:
 - The effect of the development on the character and appearance of the area;
 - The effect of the development on protected habitats that are part of the Special Protection Areas of the Solent.

Reasons

Character and Appearance

4. The site is on the corner between Bitterne Road West and Athelstan Road. Currently, there is a small single storey former hairdresser building on the site. There is a gravel area to the side and a path to the rear. The building appears in a poor state of repair with the site not being actively used.

5. The site is within the city on the junction of two busy roads. There is a mixture of residential, commercial and retail in the area. Most buildings are two storey, often with traditional pitched roofs, although there is some variation to these aspects.
6. The proposal is for a two-storey building, but with a third storey in the roof void. There is proposed to be a retail unit to the ground floor, with two flats above. There is one parking space to the side of the unit, to serve the retail unit only.
7. The proposed building has a modern appearance, with a key feature being the curved front elevation, which responds to the corner plot location of the site and the bend in the highway to the front. There is also variety and articulation to the proposed elevations, which add interest to the proposed building's appearance. The use of the terraces would be in keeping with this design approach.
8. There is a significant amount of flat roof area to the top of the proposed building, although much of this would be not fully apparent due to the sloping sections of roof which extends down to the eaves. Although this may not be a traditional pitched roof approach, this is a modern style building and the roof proposed reflects this approach. Furthermore, the varied style and form of buildings in the area is such that the building design and its flat roof sections would not appear incongruous or detract from the character of the area.
9. The height as proposed, partly as a consequence of the flat roof sections, would be only modestly taller than adjacent pitched roof buildings. Furthermore, as a corner plot building in a prominent location a taller building is typical and often a suitable approach, and this is reflected in the Council's Residential Design Guide (2006). In this case, I am of the opinion that the height, scale and form of the proposed building is acceptable in this location.
10. The Residential Design Guide also states that the footprint of buildings and hardstanding should not exceed 50% of the site area. However, this is a relatively small and constrained site, which is in the middle of a high density urban area. To have a building and hardstanding covering no more than 50% of the site would result in a particularly small building. I regard it as reasonable, in these circumstances, to allow for a larger building on the site with some hardstanding. I recognise this would leave little space for soft landscaping which would be visible from the frontage, but this is not uncommon in this area with the neighbouring buildings along Bitterne Road West immediately fronting the public footway.
11. This is not a typical plot in terms of size and shape, even for this urban area of Southampton. Therefore, the plot coverage would not be harmful to the character of the area, whilst also providing a suitably efficient use of this plot.
12. I note that occupants would need to leave the building to access the bin store, but the arrangement is such that I would not consider this to be a particular issue or inconvenience. I do not regard this as a clear indication of the overdevelopment of the plot as proposed.
13. Overall, the proposed design and scale of the building would not be harmful to the character and appearance of the area. The proposal is therefore in accordance with saved policies SDP1, SDP7 and SDP9 of the adopted City of

Southampton Local Plan Review (March 2015), and policy CS13 of the adopted Local Development Framework Core Strategy Development Plan Document (January 2015). These policies seek to, amongst other things, require development to not adversely affect the amenity of the city; to respect the existing built environment; to be of a suitable scale; and make higher densities work. Furthermore, I do not regard the proposal as being contrary to the overall aims of the Residential Design Guide SPD (2006).

European Habitat Sites

14. The site is within 5.6km of the Solent coastline. As such, it is necessary for me to consider any significant effects that the development may have on the Special Protection Areas (SPAs) of the Solent Coastline. These designated sites are protected by the European Habitats Directive and, in turn, through domestic legislation in the Habitat Regulations. It is necessary that I firstly consider through a screening exercise whether the development would, alone or in combination with others, have a significant effect on the designated sites; and if so, secondly to undertake an "appropriate assessment" (AA).
15. It is not permissible to take account of measures intended to avoid or reduce the harmful effects of a project on a designated site at the screening stage, such as, for example, a financial contribution for the management of habitats.

Screening Exercise

16. The Solent coast is internationally important in providing mudflats, shingle and saltmarshes which are essential feeding and roosting habitats for overwintering birds. The area attracts 90,000 waders and more than 10% of the world's population of Brent Geese.
17. The Solent also attracts substantial numbers of recreational visits every year which has the potential, particularly through dog walking, to disturb the birdlife. Particular threats posed by such disturbance include birds being moved, thereby forgoing feeding time and needlessly expending energy as well as increasing competition for access to undisturbed food-rich areas. Migrating birds rely on these habitats to build up energy reserves to undertake their migratory journeys and to breed and a consequence of them not being able to do so would be a reduction in their overall population.
18. Additional pressures in this regard will arise as a result of new house building. Accordingly, I consider that occupation of the proposed development would be likely to increase recreational pressures on the SPAs and, either alone or in combination with other development in the area, would have a significant effect on them.
19. Furthermore, following Natural England's comments dated 27 August 2019, it is apparent that increased levels of waste water and that nutrient levels in the receiving waters of the Solent needs to be taken into consideration, with the aim of achieving nutrient neutrality from new development. There is uncertainty at the present time as to whether new residential development will further deteriorate the protected sites and Natural England indicate that one way to address this uncertainty is for new development to achieve nutrient neutrality. Natural England is working with other bodies to progress mitigation strategies that cover the areas, and this may include strategic options and/or a financial contribution.

20. For these reasons, it is therefore necessary for an AA to be undertaken.

Appropriate Assessment

21. Having concluded that AA is necessary, it is permissible for me to have regard to any proposed avoidance or mitigation measures. Accordingly, I had had regard to Bird Aware Solent's Recreational Mitigation Strategy (SRMP). This document is described by the LPA as a Supplementary Planning Document.
22. The proposal would provide additional dwellings and so potentially draw more people into the area, in close proximity of the Solent. It is clear from the evidence provided that, as described above, increased recreational pressures would have an adverse impact to the ecological integrity of the Solent sites, when considered in combination with other new housing development in this city. As such, mitigation as set out within the SRMP would be necessary to address this impact as a result of the development.
23. Similarly, the additional development proposed would result in the potential for increased waste water which would have an adverse impact to the water environment of the Solent, such as high levels of nitrogen and phosphorus in with evidence of eutrophication at some designated sites. Natural England advise the need for nutrient neutrality from new developments.

Mitigation

24. The SRMP has been prepared by a partnership of local authorities and conservation bodies including Natural England and has been the subject of public consultation. It seeks to provide a strategic mechanism to secure mitigation, in perpetuity, for the additional disturbance to birds as a result of house building around the Solent.
25. Specific measures include: a team of rangers, site-specific visitor management and a delivery officer and monitoring to help adjust to mitigation measures as necessary.
26. New and enhanced strategic green spaces are funded directly through local authority and other forms of capital funding, whilst the remaining non-infrastructure costs are met through developer contributions.
27. The appellant has submitted an agreement pursuant to Section 111 of the Local Government Act 1972 to make a financial contribution as set out in the SRMP. I have also been provided with SRMP which sets out the justification for the payment levels and the overall strategy for mitigation. As the process of securing mitigation set out in the SPD has been drawn up in consultation with Natural England, I am satisfied that, theoretically, this mechanism could meet the necessary 'Strategic Access Management and Monitoring' (SAMM) requirements so as to avoid significant adverse effects on the European Sites.
28. With regards the SRMP, Natural England has stated that "Natural England are satisfied that the applicant has mitigated against the potential adverse effects of the development on the integrity of the European site(s) and has no objection to this aspect of the application."
29. However, with regards the issue of waste water from new housing entering the Solent, there is no mitigation proposed that would satisfy me that the

development would not result in an increase of waste water that would adversely affect the Solent. I recognise that this is an issue raised since the decision made by the Council, but nonetheless as the 'competent authority' in this making of this appeal decision, it is incumbent on me to consider this matter. I also recognise that it is difficult for smaller developments to address this matter, with no mitigation strategy currently in place, to my knowledge. It is therefore not possible for me to conclude that the development would be nutrient neutral in its impacts. It is Natural England's advice to be as precautionary as possible when addressing uncertainty.

30. The last use was as a hairdresser, although this appears to have ceased some time ago with the building vacant at the time of the site visit. A hairdresser may have used a substantial amount of water, but I am not convinced this would be comparable or have a greater impact to nutrient neutrality in the Solent than the proposed development, which is a larger building including flats and a retail unit. The flats would also potentially bring more people to live in the area. As such, whilst this is not a major development in scale, it would likely have more of an impact when considering the nutrient issue. Therefore, mitigation would be required.
31. There is a planning history for this site, but this was prior to this matter being raised by Natural England. The proposal would result in one additional flat over that approved and so would likely have a greater impact than the extant consent. The situation has to be considered based on the most up-to-date information also.
32. It has been brought to my attention that with some authorities there may be an adjustment to CIL monies or other forms of contribution, but I am not aware of any suitable mechanism to be considered as mitigation available for this proposal in Southampton.
33. Having regard to the nature of the proposed development and the increased risk which would stem from the additional waste water as a result of the proposed use, I consider that in the absence of suitable mitigation measures the appeal scheme would present likely significant effects on the Solent SPAs which, either alone or in combination with other plans and projects, could adversely affect the integrity of these protected sites.
34. No alternative solutions that would have a lesser effect, or avoid an adverse effect, have been provided. Therefore, the Habitats Regulations states the permission must not be granted, unless there are imperative reasons of overriding public interest. Given the scale of the proposal, I do not consider the provision of two dwellings and a single retail unit of the scale proposed would represent such an overriding public interest in this case.
35. For the above reasons, and following Appropriate Assessment, I find this proposal to be in conflict with policy CS22 of the Council's adopted Core Strategy which requires that development does not adversely affect the integrity of international habitat designations.

Conclusion

36. I have found that the proposal would not harm the character and appearance of the area. However, my findings in respect of European Sites are decisive in this case.
37. Therefore, the appeal is dismissed.

S. Rennie

INSPECTOR