



Appeal Decision

Site visit made on 25 June 2012

by David Harmston FRICS DipTP MRTPI

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

Decision date: 26 July 2012

Appeal Ref: APP/D1780/A/12/2171342

39 Archers Road, Southampton SO15 2NB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against the failure of the Local Planning Authority to give notice of its decision within the appropriate period on an application for planning permission.
 - The appeal is made by Oakdene Construction Limited against Southampton City Council.
 - The application (Ref 11/01336/FUL) was dated 12 August 2011.
 - The development proposed is the erection of a 20 unit flatted development with associated parking and storage areas.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a 20 unit flatted development with associated parking and storage areas at 39 Archers Road, Southampton SO15 2NB in accordance with the terms of the application (Ref 11/01336/FUL), dated 12 August 2011, subject to the conditions set out in the attached Schedule.

Procedural Matters

2. The appeal is made against the failure of the Local Planning Authority to give notice of its decision within the appropriate period. The Council would have refused planning permission for three reasons which I summarise as follows:
 1. An inadequate level of car parking provision causing a poor level of amenity for the occupiers of the proposed flats with an inadequate degree of surveillance for cars that would need to park in the street. The adjoining residents would experience an exacerbation of the difficulties already being caused because of the overspill of car parking from the development into the street. As such the proposals are contrary to the provisions of Policies SDP1 (i) and SDP10 (ii) of the City of Southampton Local Plan Review (March 2006), the Residential Design Guide SPD (September 2006) (particularly paragraphs 5.2.12 and 5.2.13) and Policies CS13 (4), (10) and (11) of the City of Southampton LDF Core Strategy (January 2010).
 2. The proposed development is poorly designed and as such it would be harmful to the character and appearance of the area and the amenities of the adjoining residential properties because:
 - (i) the elevational treatment of the building appears to have been drawn from the surrounding modern built form (particularly Overdell Court, opposite the site) which is considered to be unattractive;

- (ii) the development would create harmful shading to the habitable room windows in the adjoining building – No 37 Archers Road;
 - (iii) the proposals are therefore in conflict with the provisions of Policies SDP1 (i), SDP7 (v), SDP9 (i and v), SDP10 (ii) and H2 (iii) of the City of Southampton Local Plan Review (March 2006), the Residential Design Guide SPD (September 2006) (particularly paragraphs 2.2.1, 2.2.12 and 3.10.2) and Policies CS13 (1), (2) and (11) of the City of Southampton LDF Core Strategy (January 2010).
3. The proposed development is unacceptable in the absence of a Section 106 agreement securing a number of infrastructure and other benefits. It would therefore be contrary to the provisions of Policy CS25 of the City of Southampton LDF Core Strategy (January 2010) and the Council's SPG on Planning Obligations (August 2005), as amended. Particularly, in its failure to make the following provisions:
- (i) a contribution towards affordable housing (Policy CS15 of the LDF Core Strategy);
 - (ii) site specific transport works for highway improvements within the vicinity of the site (Policies CS18, CS19 and CS25 of the LDF Core Strategy and the SPG);
 - (iii) measures to support strategic transport improvements in the wider area (Policies CS18 and CS25 of the LDF Core Strategy and the SPG);
 - (iv) a financial contribution towards the provision and maintenance of open space (Policy CLT5 of the Local Plan, Policies CS21 and CS25 of the LDF Core Strategy and the SPG);
 - (v) a financial contribution towards the provision of a new children's play area and equipment (Policy CLT6 of the Local Plan, Policies CS21 and CS25 of the LDF Core Strategy and the SPG);
 - (vi) a mechanism to secure a pre and post construction highway condition survey and the consequent repairs that could be necessary, in the interests of the character and appearance of the area and the usability of the local highway network.
3. In reaching my conclusions on this matter, I have taken account of the recently published National Planning Policy Framework (the 'Framework'). The Local Plan was adopted in March 2006 and the Local Development Framework (LDF) Core Strategy in January 2010. As such the local policy context is relatively up to date. Moreover, none of the relevant development plan policies are inconsistent with the Framework. Therefore, and whilst the policies in the Framework have been considered, in the light of the facts of this case, they do not alter my overall conclusions on this matter.
4. In respect of the third intended reason for refusal set out above, the appellant has submitted a signed Unilateral Undertaking dated 22 May 2012. The Council has accepted that the Obligations contained therein satisfy its

expectations and it is stated that '*this reason can be set aside*'. Having studied the terms of the Undertaking and having regard to the relevant policies of the Local Plan, the LDF Core Strategy and the Council's SPG I consider that the planning obligations set out within the Undertaking are reasonably and proportionately related in scale and kind to the development in all respects and that they satisfy the tests set out at Regulation 122 of the Community Infrastructure Regulations 2010. Having regard to the above I consider the intended third reason for refusing the application no further.

Main Issues

5. In the light of the above the outstanding main issues in this appeal are, firstly; by reason of the design and siting of the proposed building, the effects of the development on the character and appearance of the area, secondly; its impact on the living conditions of the occupants of No 37 Archers Road in terms of any undue loss of light, overshadowing or loss of privacy and, thirdly; whether an adequate number of car parking spaces would be provided within the development so as to avoid any excessive overspill of car parking onto the adjoining street(s) to the detriment of the surrounding residents and the occupiers of the proposed flats.

Reasons

6. The development is proposed on a recently cleared site situated at the junction of Archers Road and Northlands Road within a densely developed, primarily residential, suburb of Southampton. It was formerly occupied by a three-storey detached, Victorian building latterly in use as a clinic. Within the immediate and wider area to the site are a number of modern flat developments. These predominate along Archers Road but there are many examples of recently redeveloped sites fronting Northlands Road which contain blocks of flats.
7. The principle of this form of development for the site is acceptable and would accord with the objectives of Policy CS5 of the Core Strategy. I also consider the principle of the development to be in general conformity with Paragraph 14 of the Framework which refers to the presumption in favour of sustainable development where proposals are compliant with the provisions of the development plan.
8. Adjoining the appeal site to the north is a 3-storey block of flats (Durban Court) whilst opposite is Dorval Manor. A 10-storey tower block (Overdell Court) is present facing Archers Road to the west. Further to the north in Northlands Road more of the original dwellings remain. These are often smaller in scale than the earlier Victorian dwellings existing elsewhere in the neighbourhood being two-storey with pitched roofs.
9. The proposal is to erect a part 3-storey, part 4-storey and part 5-storey block of flats on the site with 10 car parking spaces and amenity areas. The building would be in the form of two blocks linked by glazed stairwells and landings. With the basement area, and allowing for the change in ground levels, the appellant states that within the streetscene the building would have the

appearance of a building having a height of 4-storeys. The top floor would be set back which would assist in mitigating the height, bulk and massing of the structure. The elevations of the building would be articulated and the design has been formulated to respect and reflect the various architectural features of the variety of building styles present in the locality.

10. On the first main issue, less than 50% of the site would be occupied by buildings or hard surfaced areas. This would be in conformity with the prevailing level of site coverage within the area. The block would be between three and five metres removed from the Northlands Road frontage and between 12 and 20 metres away from the pavement in Archers Road.
11. Nos 37 and 39 Archers Road were unusual in their siting being set well back from the road in comparison to the buildings existing to the east and west. The way in which the design and siting of the block has been conceived would ensure that, by its incremental and staggered formation stepping forward in phases towards Archers Road, it would respect and be in sympathy with the prevailing arrangement of buildings set out along the road frontage, responding positively to the constraints of the site.
12. Further, with the retention of many of the existing trees and new landscaping and tree planting the appearance of the block would be softened in the streetscape. The visual impact of the development in the streetscenes, notwithstanding the prominence of the site on this important corner plot, would not render the building as being overly-intrusive or markedly out of character with the pattern or style of the building existing locally. Policy SDP9 of the Local Plan accepts that the erection of tall buildings on corner plots can be appropriate subject to other considerations.
13. The Council has criticised the design of the building as being drawn from the appearance of the surrounding blocks (particularly Overdell Court) which are described as 'unattractive'. The design of the building is contemporary but having regard to the wide variety of building styles and heights within this neighbourhood I consider that the development would appear neither incongruous nor visually offensive on this site. For all of these reasons I conclude that the development would be in conformity with the relevant policies of the Local Plan and the Core Strategy and that nothing within the Residential Design Guide SPD (Paragraph 3.10.2) should preclude the approval of this scheme on this site on this issue.
14. On the second main issue, the relationship between the proposed development and the adjacent flats at No 37 Archers Road is of primary importance. Bathroom and kitchen windows face the site from this building. Nevertheless, because of the siting of the block one-metre away from the boundary, and its reduction in depth being achieved by staggering the frontage to correspond to the adjoining block, there would be no undue loss of light or overshadowing. The appellant has demonstrated that no additional loss of sunlight would occur than was the case before No 39 Archers Road was demolished. Bearing in mind the impact that the now demolished structure would have had on No 37 Archers Road in these terms, and the fact that the massing of the structure would accord with the 45 degrees angle test set out in the Residential Design

Guide, I do not consider that the situation that would be created in terms of overshadowing would be materially worse than it was previously.

15. With the use of obscured glazing to the windows in the east elevation of the block, any overlooking in that direction would be avoided. The balconies in the flats would have permanently erected screens to their side for the same reason. With appropriate conditions the development could be implemented in a way that would be in compliance with the relevant policies of the Local Plan and the Core Strategy on this issue and no undue harm to the amenities of the residents of the adjoining building would be created.
16. On the third main issue, the Council's up to date and adopted standards set down the maximum number of spaces to be provided within a particular development. Being on the edge of the City centre, with good public transport facilities and where there is easy access to a wide range of shops and essential services, I regard the site as being within a highly sustainable location. In such circumstances, where the reliance on the use of the private car should be minimised, it is appropriate in my conclusion that the number of available car parking spaces within new developments should reflect these considerations. Such an approach is in tune with development plan policies and reflects the guidance set out in the Framework, for instance at Paragraphs 34 and 39.
17. The Highway Authority acknowledges that the provision of the ten spaces proposed in this development would meet the terms of Policy SDP5 of the Local Plan and the Parking Standards SPD and that this number would be acceptable in meeting the Council's aim of encouraging the use of other transport modes such as walking and cycling. Notwithstanding, the Council maintains that the level of car parking provision proposed for the site would be inadequate. There is already a shortage of available spaces on the nearby roads and overspill, on-street parking would be inevitable. This would harm the amenities of local residents and mean that some occupiers of the flats would have poor surveillance of their vehicles from their dwellings.
18. At the time of my site visit around midday there were a number of available parking spaces in Northlands Road. A maximum waiting time of two hours was permissible and in this way commuters to the City centre were not able to park on the road throughout the day. Unrestricted parking is available between 1800hrs and 0900hrs and many of the potential parking spaces available to the occupants of the flats would be visible from their windows.
19. As a general point, both National and Local policy is aimed towards restricting the use of the private car and one of the tools which is available to achieve that objective is a restriction of on-site car parking provision within new developments located in sustainable positions. The adopted policies and SPD of the Council follow this approach and I do not consider that there are any reasons in this case why an exception to established and up to date policy should be made. Subject to the provision of cycle storage areas within the development, and in this highly sustainable location, it seems to me that the level of car parking provision to be made within the development is both appropriate and acceptable. Inevitably some cars will park on Northlands Road but that is insufficient as a reason to resist the development on this issue.

Conditions

20. I have considered the matter of conditions in the light of those suggested by the Council and the guidance set out in Circular 11/95 (*The Use of Conditions in Planning Permissions*) together with all the circumstances of this case. As the building that was on the site has now been demolished, and for reasons of clarity and succinctness, I have modified and combined some conditions, where appropriate. Apart from the statutory time duration of the permission it is necessary to control the details of the external materials of the development, in the interests of visual amenity.
21. I have specified the approved drawings in the interests of proper planning and for the avoidance of doubt. I have noted some variations in the drawing numbers that were submitted with the appeal and those listed by the Council but I am satisfied that I have the correct ones. I have imposed conditions concerning the landscaping of the site, external lighting, site levels, tree retention, boundary works and the provision of a cycle storage area and refuse and recycling facilities in the interests of visual amenity and to ensure that the development is provided with the necessary facilities.
22. I have imposed conditions requiring the use of obscured glazing and appropriate balcony screens on the eastern side of the building to preserve the privacy of the residents of No 37 Archers Road. A scheme for the approval and implementation of mitigation measures relating to habitat and species is appropriate. The sustainability of the development should be the subject of a condition and a Construction Method Statement should be approved and implemented to avoid undue nuisance from the development during the construction period. Similarly, the hours during which construction can take place should be controlled in the interests of residential amenity.
23. The proposed amenity space should be provided and made available prior to the occupation of the flats and the vehicular access should be controlled in relation to its sight lines in the interests of safety. I have not imposed conditions concerning drainage as this is a matter for other legislation. Although the Council has suggested conditions concerning the possible archaeological value of the site, no substantial evidence has been provided to support such a requirement. Bearing in mind that the building has now been demolished and the site has been substantially cleared, and in the absence of any clear evidence on the point, it is unnecessary to require the imposition of conditions concerning its possible contamination.
24. I have considered and taken into account everything else that has been raised in relation to this appeal. I have afforded weight in the planning balance to all the points made in opposition to this proposal but nothing overrides my conclusions above and the reasons for them.

David Harmston

Inspector

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be commenced within three years of the date of this decision.
2. Notwithstanding the details shown on the plans hereby approved, before the development hereby permitted is commenced, details and samples of all the external materials to be used in the construction of the flats and the associated building works, including the hard surfaced areas and boundary works, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details and samples.
3. The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos:- 091103/P00; 091103/PO1; 091103/P02; 091103/P03/A; 091103/PO4; 091103/05; 091103/06/A; 091103/PO7/A; 091103/P08/A; 091103/P09/A; 091103/P10/A; 091103/P12; 091103/P13; 091103/P14; 091103/15; TM-540-01; TM-540-02 and TM-540-03.
4. Notwithstanding the details shown on the plans hereby approved, before the development hereby permitted is commenced, a scheme of landscaping for the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the planting of trees, hedges, shrubs and herbaceous plants and areas to be grassed. The landscaping shall be carried out in the first planting season following the completion of the development and shall be maintained for five years. Any trees, shrubs or other plants which die, become seriously diseased or are damaged during this period shall be replaced during the next planting season with specimens of the same size and species.
5. Pursuant to the above condition details of those trees which are to be retained within the development shall be submitted to and approved in writing by the Local Planning Authority. Any trees which are to be retained as part of the landscaping scheme shall not be cut down, uprooted or destroyed nor shall they be lopped, topped or pruned otherwise than in accordance with details which the Local Planning Authority has approved in writing before the works are undertaken. Any pruning shall be carried out in accordance with BS3998 (*Recommendations for Tree Work*) and in accordance with any supplied arboricultural method statement.
6. Before any development in accordance with this permission is commenced, a scheme for the protection of the retained trees during the construction period shall be submitted to and approved in writing by the Local Planning Authority. This scheme and the arboricultural method statement referred to above shall be drawn up in accordance with the recommendations contained within BS5837:2005 (*Trees in Relation to Construction*).
7. The approved protection works shall be put in place prior to any work commencing on site and thereafter retained until the development is

completed and all materials, plant, equipment or other items associated with the building works have been removed from the site. Nothing shall be stored or placed within the protected area nor shall any fires be started or tipping, cement-mixing or disposal of waste products be carried out within the protected area. No excavation of the ground or alteration to ground levels shall take place within the protected area.

8. Notwithstanding the details shown on the plans hereby approved, before any development in accordance with this permission is commenced, details of the finished floor and ground levels, the means of enclosure and boundary treatment of the site, refuse bins and lighting columns shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details.
9. Before the development hereby permitted is commenced, details of a programme for habitat and species mitigation and enhancement measures shall be submitted to and approved in writing by the Local Planning Authority. This shall be fully implemented in accordance with the approved programme before development commences.
10. Before the development hereby permitted is commenced, details of the methods by which the development will achieve a minimum Level 3 of the Code for Sustainable Homes (including at least 15% in category Ene1) shall be submitted to and approved in writing by the Local Planning Authority. These measures shall be fully implemented before any of the flats hereby permitted are first occupied.
11. Before the development hereby permitted is commenced, a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. This Statement shall include details of:
 - (i) parking of vehicles for site personnel, site operatives and visitors;
 - (ii) loading and unloading of plant and materials and their storage;
 - (iii) treatment of all relevant pedestrian routes and highways within and around the site throughout the construction period and their reinstatement where necessary thereafter;
 - (iv) measures for the suppression of dust and dirt throughout the construction period, including vehicle wheel cleaning facilities;
 - (v) details of how noise emanating from the site during the construction period will be mitigated.

The measures set out in the approved Statement shall be fully implemented and adhered to at all times.

12. The amenity space areas shown on the plans hereby approved, and the pedestrian accesses to them, shall be made available for such use prior to the first occupation of any of the flats hereby permitted.

13. Before the development hereby permitted is commenced, details of the provision to be made for the storage of cycles, refuse bins and recycling facilities shall be submitted to and approved in writing by the Local Planning Authority. These facilities shall be provided in accordance with the approved details before any of the flats hereby permitted is first occupied.
14. Notwithstanding the details shown on the plans hereby approved, within two metres of the vehicular access into the site, the planting and boundary treatment on the site's northern boundary shall not exceed 600mm in height at any time.
15. No construction works to implement this permission shall be carried out on the site on Sundays or Public Holidays or at any other time except between 0800hrs and 1800hrs on Mondays to Fridays or between 0900hrs and 1300hrs on Saturdays.
16. The windows situated in the east elevation of the building hereby permitted shall be permanently fitted with obscured glass and shall be permanently non-opening to a height of 1.7-metres above internal finished floor level.
17. Before the development hereby permitted is commenced, details of the privacy screens to be erected on the eastern sides of the balconies and roof terraces positioned adjacent to the boundary with No 37 Archers Road shall be submitted to and approved in writing by the Local Planning Authority. The screens shall be installed in accordance with the approved details before any of the flats hereby permitted is first occupied and shall thereafter be retained in accordance with the approved details.

END
