
Appeal Decision

Site visit made on 28 January 2014

by Gareth Symons BSc Hons DipTP MRTPI

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

Decision date: 14 February 2014

Appeal Ref: APP/D1780/A/13/2197994

Land at the rear of 8-16 Denzil Avenue, Southampton, SO14 0LJ

- 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 H Singh against the decision of Southampton City Council.
 - The application Ref: 12/1190/OUT/5119, dated 2 August 2012, was refused by notice dated 15 November 2012.
 - The development proposed is re-development of the site to provide 10 flats (2 x three bedroom, 3 x two bedroom and 5 x one bedroom) within one and a half storey buildings, including accommodation in the roof space with associated works (Outline application seeking approval for Access, Layout, Scale and Appearance).
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council's second reason for refusal) relates to concerns that vehicular parking from the appeal site would be displaced onto surrounding roads. The appellant has since undertaken a parking survey. The Council has confirmed that the survey result means that parking is no longer a concern and that the second reason for refusal has been addressed. I agree and so this is no longer an issue that requires any further consideration.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the living conditions of the future occupiers of the new flats and the existing occupiers of 10 and 11 Denzil Avenue with particular regard to privacy, amenity space, noise and disturbance;
 - whether the appeal development would prejudice the development of adjoining land in the future;
 - whether the proposal should provide an element of affordable housing and contribute financially towards various off-site infrastructure improvements.

Reasons

Residential Amenity

4. The appeal site is an area of land at the rear of properties fronting Denzil Avenue. Access is gained in between nos 10 and 11. Land to the north is a vehicle repair and sales garage whose buildings back onto the appeal site. On the site there are various structures including some garages that would be removed to make way for the new flats. These would be arranged in four blocks in an arc towards the rear of the site. The rear walls of the flats would come very close to the adjoining garage buildings. Thus, for the most part the windows to the main habitable rooms of the flats would face into the site over a landscaped space. There are numerous ground, first and second floor windows in the rear elevations of the Denzil Avenue properties.
5. The distances between windows in the new flats to the rear windows of the Denzil Avenue properties would in most cases meet the separation needed to secure privacy as outlined in the Council's Residential Design Guide. Although some minimum distances would it seems not be achieved there is scope in my view to apply such standards flexibly particularly in urban locations on previously developed land.
6. However, apart from the two 3-bed flats, the occupiers of the new flats would be reliant on a communal amenity space situated mostly in between the appeal scheme and the Denzil Avenue properties. This space would seem to be larger than needed according to the Council's open space standards in relation to the number of new flats proposed. However, the plans show as part of this scheme that fences between the appeal site and the Denzil Avenue properties would be removed to allow access for amenity. It seems to be the intention to allow those occupiers to access this space as well.
7. The use of the Denzil Avenue buildings is not particularly clear. It has though not been disputed that they comprise multiple small units of accommodation and from Council records in 1991 nos 8-16 Denzil Avenue were declared as comprising 70 bedsits. It seems therefore that there would be a very intensive use of the proposed joint amenity space thus making it unrealistic to create private areas by screening or planting. Without any private spaces there would be unrestricted communal access up to windows serving bedrooms and lounges thus seriously compromising the use of some main living spaces in the new flats. Not all occupiers of flats require or desire to have outdoor spaces to maintain and some of the flats may not attract family occupation. Nonetheless, it is a reasonable expectation that privacy would be safeguarded.
8. The appeal decision referred to by the appellant is noted. However, that was a scheme for a lesser number of flats arising from conversion of an existing building. There was also already a planning permission for flats and the character of the area does not appear to be the same. In view of these differences I attach little weight to the other Inspector's findings. In any event each appeal should be considered on the basis of its individual circumstances.
9. Due to the fact that this would be a car free development I find it very difficult to envisage that just pedestrians walking past nos. 10 and 11 Denzil Avenue along the existing access, where such movements already take place, would be unduly noisy or disturbing. Furthermore, the possible glare from any lighting needed could be considered and controlled by a suitably worded planning condition. I do not therefore find harm to the amenities of the occupiers of 10 and 11 Denzil Avenue from these aspects of the scheme.

10. To sum up, based on the layout shown the privacy of the occupiers of the flats would be unacceptably affected. The appeal scheme is therefore contrary to the amenity protection aims of policies SDP1 and SDP9 from the City of Southampton Local Plan Review.

Adjoining Land

11. The appeal scheme has had to work within the site's constraints including the relationship with the garage at the back. If in the future the garage became available for redevelopment that too would have to respond to its own site constraints including any possible new flats on the appeal site. As proposed the new flats would not have any main habitable room windows facing towards the garage site. Thus they would not impinge unacceptably on any future garage site scheme by, for example, setting a minimum distance requirement between facing windows. If the appeal was being allowed this could have also been controlled by planning conditions. In any event there is no indication that the garage has or is being proposed for redevelopment. Such concerns do not justify a further reason to find the appeal scheme unacceptable.

Affordable Housing and Developer Contributions

12. The number of flats proposed triggers a 20% affordable housing requirement in accordance with policy CS15 from the Southampton City Core Strategy. That might be on site provision, on an alternative site or a commuted financial payment. The appellant refers in the Design and Access Statement and in the Grounds of Appeal to a viability assessment. However, this has not been submitted and so on its face there would appear to be a need to secure some affordable units. I did consider whether to request the assessment but in view of the fact that the appeal is failing for other reasons this might have put the appellant to unnecessary further expense. This matter could thus be more appropriately considered if an application for an alternative scheme is submitted when the viability issue would probably also be different.
13. Since the application was refused the Council has adopted its Community Infrastructure Levy (CIL) Charging Schedule. Some of the developer contributions referred to in the Council's third reason for refusal would thus become CIL liable at the reserved matters stage. Highway improvements and repairs and refuse management are thus left for consideration now.
14. There is a policy base for requesting such contributions and supplementary planning guidance on planning obligations. However, there is nothing to show where and what any monies requested would be spent and whether such projects are directly related to any consequences of the development. At this stage therefore I do not find that such developer contributions would be necessary to make the appeal development acceptable in planning terms. This conclusion is only based on the evidence before me. It does not preclude the Council pursuing from these again if a revised scheme is submitted and they are justified.
15. At this stage I do not find conflicts with the relevant infrastructure policies referred to by the Council.

Other Matters

16. The encouragement to use previously developed land effectively is noted as is the fact that the Council has not objected to the principle of redeveloping the

site. However, this does not negate the need to deliver high quality homes that have a good standard of amenity for future occupants including private spaces. No other matters raised outweigh the above findings.

Conclusion

17. It is concluded that the appeal should be dismissed.

Gareth Symons

INSPECTOR

Richborough Estates