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## Appeal Decision

Site visit made on 28 August 2015

**by Harold Stephens BA MPhil DipTP MRTPI FRSA**

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

**Decision date: 24 September 2015**

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**Appeal Ref: APP/D1780/W/15/3008850**  
**13 Grosvenor Road, Southampton SO17 1RU**

- 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 H Singh against the decision of Southampton City Council.
  - The application Ref 14/00999/FUL, dated 9 January 2014, was refused by notice dated 30 October 2014.
  - The development proposed is the conversion of existing building into 5 flats with associated works, car and cycle parking.
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### Decision

1. The appeal is dismissed.

### Application for costs

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

### Main Issues

3. I take the view that the main issues in this appeal are:
  - (i) the effect of the proposal on the character and appearance of the area;
  - (ii) the effect of the proposal on the living conditions of future occupiers of the premises and the occupiers of nearby dwellings; and
  - (iii) the implications for highway safety.

### Reasons

4. The appeal site is a substantial two storey detached property, with accommodation on three floors and situated in a predominantly residential area. There is a large garden to the rear of the property and to the front is a sloping hard surfaced forecourt capable of accommodating 3 cars. Nearby are the Portswood District Shopping Centre and Southampton University Campus.
5. The authorised use of the site is a single dwelling as approved under 02/00482/FUL. This permission allowed for No 11 and No 13 Grosvenor Road to be used as separate dwellings, having previously been operating as a residential care home. During the years as a care home a large single storey flat roof extension was added at the rear of No 13. There have been two recent appeal decisions addressing residential development at the appeal site. An enforcement appeal was dismissed on 11 July 2012 as the property was

being unlawfully used as a House in Multiple Occupation (HMO).<sup>1</sup> A previous application for planning permission for a change of use identical to the appeal proposal was refused and dismissed on appeal in August 2013.<sup>2</sup>

6. The development plan includes the City of Southampton Local Plan Review (March 2006) (LP) and the Local Development Framework Core Strategy Development Plan Document (January 2010) (CS). The most relevant policies set out in the LP are Policy SDP1 Quality of Development; Policy SDP7 Context; Policy SDP9: Scale, Massing and Appearance; Policy SDP16 Noise; Policy H1 Housing Supply; Policy H2 Previously Developed Land; Policy H4 Houses in Multiple Occupation and Policy H7 The Residential Environment.
7. The most relevant policies set out in the CS are Policy CS5 Housing Density; Policy CS13 Fundamentals of Design; Policy CS16 Housing mix and type; Policy CS18 Transport; Policy CS19 Parking and Cycling; Policy CS20 Tackling and adapting to climate change and Policy CS25 Infrastructure Delivery and Developer Contributions. The following Supplementary Planning Documents are also relevant: Residential Design Guide (2006); Planning Obligations (2013) and Parking Standards (2011). The National Planning Policy Framework (NPPF) (2012) is also a material consideration.

***Issue (i) the effect of the proposal on character and appearance***

8. At my visit I saw that the property has the appearance of a single dwelling when viewed from the street. Either side of the site are single family, detached houses. The greater part of the street is comprised of detached character properties, in use as single family houses, but elsewhere in the street there are semi-detached properties and some purpose built flats such as Richmond Gardens, Grosvenor Court, Dawtrey Court, Richmond Hall and Grosvenor Lodge, all south of the appeal site.
9. Policy CS16 of the CS sets out that the Council will seek to provide a mix of housing types along with more sustainable and balanced communities. Policy CS5 states "*whilst there is continuing pressure for higher densities in order to deliver development in Southampton, development will only be permitted which is of an appropriate density for its context*". Furthermore, the first criterion given by which development density is to be assessed is "*The need to protect and enhance the character of existing neighbourhoods*".
10. The appeal proposal is for the conversion of an existing building into 5 flats with associated works, car and cycle parking. The configuration of the accommodation would be 2 x 3 bedroom units, 2 x 2 bedroom units and 1 x 1 bedroom unit. The proposed flats would be Class C3 dwelling houses and are intended to provide accommodation for a wide variety of people of different ages including first time buyers, families and students. The representations from the Highfield Residents' Association (HRA) and others argue that the appeal proposal in effect seeks a permitted use which would be a *de facto* HMO. I consider the proposed 5 flats would not comprise a HMO which is a sui-generis use but rather would constitute 5 separate planning units and would be occupied independently of each other.
11. Nevertheless, the potential number of occupiers could be up to a maximum of 22 people with a minimum of 11 but more realistically of the order of 15 or

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<sup>1</sup> APP/D1780/C/11/2167641

<sup>2</sup> APP/D1780/A/13/2190531

so. Given the site's proximity to the University campus, the Appellant's substantial property portfolio and the fact that students have been living in the rear of the property in the last 2 years, it is reasonable to expect students to be attracted to the premises. On the basis of the submitted plans and my site visit I identify 22 bed spaces and therefore a maximum occupancy rate of up to 22 people must provide the basis of the assessment of impact on character and appearance. In my view the appeal proposal would clearly result in an over intensification of the use of the appeal site.

12. The Appellant does not specifically address the impact upon the character and appearance of the area but relies upon the 2013 Appeal Decision arguing that there have been no changes to the proposal and no material changes to national or local plan policies. I disagree with that decision for the reasons set out below but I accept it is a material consideration in the current appeal case. The Appellant makes no reference to the 2012 Appeal Decision which is also a material consideration. In that decision it was found that occupation by 15 people would result in an adverse impact on character and appearance. Plainly, the potential occupancy of the appeal proposal (up to 22) would have a similar if not a greater impact on the character and appearance of the area.
13. There is a material difference between a large single dwelling and 5 flats functioning as 5 separate households. For instance there would be 5 sets of deliveries and servicing requirements instead of the single trip required for the single dwelling. The noise and disturbance arising from the increased intensity of occupation would have an adverse impact within an area of predominantly family dwellings. There would also be an impact arising from the car parking to the front of the property and in relation to on street parking. At the time of my visit, mid-morning, there were a number of cars parked in the street and spaces for on street parking were available. However, that is likely to be subject to fluctuating periods of demand and whether the premises were occupied by students or non students. A change in the nature of the occupancy such as is proposed here would lead to pressure for on street parking beyond what would be expected for a single family household.
14. Moreover, it is more likely that bins would be left on the front forecourt, where despite their screening they would seem unusual in the context of other residents' smaller wheeled bins. There is also evidence of complaints from local residents about rubbish being left on the front forecourt of the property in recent months. I find that the proposal would result in unacceptable harm to the character and appearance of the area and contrary to Policy H1(iv), Policy H4 (ii), Policy SPD7 and Policy SPD 16 (i) of the LP and it would also be contrary to Policy CS5(1) and Policy CS13(11) of the CS. I conclude on the first issue that the appeal must fail.

***Issue (ii) the effect of the proposal on living conditions***

15. It is clear that given the close proximity of the appeal proposal to other residential properties there would be a significant potential for an adverse impact on residential amenity arising out of increased levels of noise and disturbance and potentially loss of privacy. The Inspector in the 2013 Appeal Decision found that the proposal would be acceptable in terms of the effect on living conditions. However, I disagree with that view for the following reasons.
16. Firstly, the impact of the proposal on living conditions must be considered in the context of the likely number of occupants. At a minimum I consider that

might allow for 11 bedrooms all occupied individually resulting in 11 adults or perhaps families would occupy the multi room flats resulting in 10 adults and perhaps 6 children living in the appeal development. Alternatively, if the premises were to be occupied by students there could be a total of 22 adults living at the development. Secondly, I note that the 2012 Appeal Decision found that the occupation of the appeal site by 15 people would result in an adverse impact on residential amenity. At my site visit I saw that the configuration of the proposed development would easily allow for 15 or more people to occupy the appeal development.

17. It is noteworthy that the 2012 Appeal Decision Inspector said that access to the rear of the site via the side access would lead to problems. The Inspector stated "*The comings and goings would exceed that which should reasonably be expected for a side, or secondary entrance. Moreover, given the lack of access to the rear garden for occupiers of the front of the property that use would be further exacerbated by those wishing to gain access to the rear garden. That would be unlike the use as a single family dwelling house where the main access would have been to the front. The noise and disturbance from increased comings and late night activity would result in unacceptable harm to the living conditions of occupiers of the adjacent property No 11*". In my view this assessment still holds good. There would be additional noise generated by the comings and goings of visitors to those occupying the premises.
18. Thirdly, the appeal development must include an appropriate amount of amenity space which is fit for purpose. I realise that two of the units are capable of accommodating families to comply with Policy CS16 but the remote nature of the rear garden and the shared access to it would prevent the occupiers using the site in the manner proposed. Parents would not want to use a remote garden area if a safe and convenient access for children is not provided. This element of the proposal would deter future occupiers from using the rear area and I consider this would be harmful to the living conditions of future occupiers.
19. In this regard I disagree with the 2013 Appeal Decision where the Inspector suggested that inadequate amenity space can be made adequate for the purposes of children's recreation by virtue of "*natural surveillance*" from unknown sources. The proposed amenity space would neither be appropriate nor fit for purpose. It would be inadequate, poorly accessed and would not be provided in sufficient proximity to the proposed flats to allow for supervised use of the amenity space by children. The appeal proposal would not represent good quality design and would not accord with Policy CS13 (11) or the Residential Design Guide SPD which states that "*all developments should provide an appropriate amount of private amenity space for each dwelling to use*". I consider that private amenity space should be fit for the purpose intended in terms of its quality and usability. The NPPF at paragraph 17 sets out that planning should "*always seek to secure high quality design and a good standard of amenity space for all existing and future occupants of land and buildings.*"
20. Concern is also expressed by local residents that the second floor plan shows a door opening which gives access to a 'balcony area.' This concern relates to the use of the large flat roof area of the single storey rear extension. At my site visit I saw that use of this 'balcony area' would be highly intrusive and would comprise a serious loss of privacy for the residents of Nos 11 and 15.

The Council has suggested a planning condition to overcome the problem but in my view this would be unenforceable. My concerns about overlooking add weight to my conclusions on noise disturbance and amenity space. Therefore the proposal would conflict with LP Policies SPD1(i), H2(iii) and H4(i). On the second issue I conclude that the appeal must fail.

***Issues (iii) the implications for highway safety***

21. The Council operates maximum car parking standards and for this proposal in this location there would be a maximum of 9 spaces for the 5 units. Three off street parking spaces would be provided. As set out in the Council's Parking Standards SPD some level of off-street parking is expected and the Appellant must also demonstrate that the amount of parking to be provided would be sufficient for the locality. The site is located within an area which is known to have parking issues for the residents and this has led to the introduction of a parking permit scheme. The appeal site lies within a controlled parking zone (CPZ), where parking is restricted to non-permit holders up to 2 hours between the hours of 0800-1800 (Monday-Friday). Up to two parking permits could be issued to each property although the Council's policy is not to issue permits to new development completed after 2001.
22. The Inspector in the 2013 Appeal Decision stated that "*...in the absence of a parking survey and contrary evidence, the greatly increased parking permit provision which would arise from permission for the proposed conversion would give rise to an unacceptable risk of serious inconvenience and danger arising from increased parking demand in Grosvenor Road.*" The Appellant relies upon a parking survey as the only real substantive evidence and this is simply to address the conclusions of the 2013 Appeal Decision that hinged in part on the lack of a parking survey.
23. However, I note that in the 2013 Appeal Decision the Inspector concluded that the unacceptable risk of serious inconvenience and danger arising from the increased parking demand was sufficient in its own right to refuse permission. The Appellant has submitted a parking survey<sup>3</sup> as part of the current appeal proposal but that does not demonstrate to the required high degree of certainty that an unacceptable risk resulting in danger is not created. It merely states that the surrounding streets could absorb the expected minimum increase in parked vehicles arising from the appeal proposal. This is not adequate to demonstrate that such risk would not arise. The Appellant seeks to persistently downplay the number of people who would occupy the appeal site and who would or might rely upon a motor car.
24. I appreciate that the Council's Highways Officer considered the parking survey to be acceptable and that it showed enough empty on-street spaces for this development not to create enough harmful impact on highway grounds. He also commented that a s106 Agreement to restrict the new development from being eligible for parking permits would eliminate any possibility of additional parking on Grosvenor Road. However, following correspondence with the Appellant, the Council accepted that it was not necessary for the Appellant to enter into a legal agreement to control access to parking permits and RFR2<sup>4</sup> was not pursued.

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<sup>3</sup> Drawing No C14/001.12

<sup>4</sup> Reason for Refusal

25. I accept that parking in the surrounding streets is controlled by permits and the Council's policy of not providing permits to new residential development could have a beneficial effect in terms of increased pressure on parking. However, that would ignore the fact that the parking permit area only operates between 0800 hours and 1800 hours on weekdays Monday – Friday and there is the ability for residents to park until 1000 hours in the morning and from 1600 hours in the evening as it has a two hours allowance each day within the 0800-1800 hours restriction time. Parking can therefore be achieved without permits and visitors can park at night without requiring a permit. Moreover, the appeal proposal can only provide parking for 3 vehicles and the appeal development would provide housing for at least 10 adults, and more likely significantly more (see above).
26. Furthermore, the parking survey only shows a snapshot of the parking pressure on that road in that area at that time and not the wider area. Written representations from local residents and the HRA are potentially more relevant than a mere snapshot. They identify an already difficult situation on Grosvenor Road throughout the day but particularly at school drop-off and pick-up time. Portswood Primary School is located at the northern end of Grosvenor Road and there have been serious traffic accidents in the recent past. It is noteworthy that the Police are regularly called to deal with traffic problems caused by parking congestion.
27. Drawing all of these matters together I consider that the parking survey relied upon by the Appellant is clearly inadequate. It does not account for the potential occupancy of the appeal proposal, taking a minimal approach in all circumstances and it does not adequately account for the wider demand arising from proximity to the University. It is likely that a proposal of this scale would result in some level of on-street parking, be it occupiers or visitors, and would therefore exacerbate parking issues in the area and cause unacceptable risk to drivers and pedestrians in Grosvenor Road. I conclude on the third issue that the proposal would be detrimental to highway safety.

### **Other Matters**

28. I have taken into account all other matters raised. The Council is not seeking an affordable housing contribution as the proposal would not result in a net gain of 5 dwellings. The additional housing units would help to meet the City's housing needs but I note that the Council has a 5 year housing land supply. Planning conditions would not overcome the harm that I have identified.

### **Conclusion**

29. I conclude that the appeal proposal is in overall conflict with the development plan and notably LP Policies SPD(i), SPD7, SPD16(i), H1 (iv) H2 (iii) and H4 (i) –(ii) and to CS Policies CS5(1) and CS13(11) and with the Residential Design Guide. It does not comprise sustainable development. I dismiss the appeal.

*Harold Stephens*

INSPECTOR