



## Appeal Decision

Site visit made on 10 August 2016

**by Elizabeth Lawrence BTP MRTPI**

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

**Decision date: 2 September 2016**

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### **Appeal Ref: APP/D1780/W/16/3150632**

### **14 Westwood Road & 90–92 Cambridge Road, Southampton, SO17 1DN.**

- 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 P and P Property Services against the decision of Southampton City Council.
  - The application Ref 15/01711/FUL dated 18 August 2015, was refused by notice dated 19 November 2015.
  - The development proposed is to demolish the existing building and create 18 flats.
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### **Costs**

1. An application for costs was made by P and P Property Services against Southampton City Council. This application is the subject of a separate decision.

### **Decision**

2. The appeal is dismissed.

### **Main Issues**

3. The first main issue is the effect of the scheme on the character and appearance of the area. The second main issue is the effect of the scheme on the living conditions of residents in Cambridge Road and the local area, with particular regard to increased traffic and pressure for on-street parking spaces. The third main reason is whether the proposed development would provide satisfactory living conditions for its residents, with particular regard to garden space. The fourth main issue is whether adequate and appropriate provision is made to address the following: affordable housing provision; necessary transport improvements; Solent Special Protection Area mitigation; the protection/repair of the public highway; the control of carbon emissions; and the control of applications for residents parking permits.

### **Reasons**

#### *Character and appearance*

4. The Appeal site is located in a mixed residential area and within a road that is characterised by a combination of large Victorian buildings and individually designed modern purpose built flats with a variety of roof forms and ranging from two to five storeys in height. Typically, there are good sized gaps
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- between individual buildings and many of the buildings are partially screened by trees both within the highway and the front gardens.
5. These gaps and trees, together with the grass verges and other soft planting to the front of the buildings, soften the appearance of the built development and contribute to the spacious and sylvan character and appearance of the immediate area. They also contribute to the setting and form an attractive verdant approach to Southampton Common. Indeed whilst now largely out of date the Westwood Park Development Control Brief 1981 refers to the landscape setting of buildings and tree lined streets.
  6. The Appeal site is situated between and opposite various purpose built flats developments which vary considerably in their design and appearance. Currently the site is occupied by a large Victorian villa, with a modern rear extension and a modern detached residential building which has access off Cambridge Road.
  7. The existing villa is not statutorily or locally listed, although it is of some architectural and historic merit. Together with its spacious setting within the site the villa makes a positive contribution to the character and appearance of the street scene. No policies have been brought to my attention, which would prevent the replacement of this building on the Appeal site. The existing extension and the detached building to the rear of the villa have little architectural merit. Taking the site as a whole, together with its setting, in principle, there is no reason why the site could not be redeveloped for purpose built flats, provided any development complied with the prevailing planning policies and advice.
  8. Collectively Policies SDP1, SDP7 and SDP9 of the City of Southampton Local Plan 2015 (Local Plan) require new development to respect the character and appearance of the area. It should contribute to the quality of the area and respect the scale, density, proportion and layout of existing buildings within the streetscape. The design of new buildings should be of a high quality and where appropriate new development should contribute to a complementary mix of uses. Policy CS13 of the City of Southampton Core Strategy 2015 (Core Strategy) has similar objectives.
  9. In accordance with policy CS5 and the Public Transport Accessibility Level (PTAL) Map at Appendix 2 of the Core Strategy the site is located in an area where (medium) densities of between 50 and 100 dwellings per hectare can be acceptable. Policy CS16 seeks to provide a mix of housing and sets a target of 30% as family homes on sites of 10 or more dwellings. At the same time it states that there should not be a net loss in family dwellings.
  10. These policies are consistent with the Council's Residential Design Guide Supplementary Planning Document 2006 (SPD). They are also consistent with the environmental role of sustainable development as set out in the National Planning Policy Framework (NPPF). It states that new development should reflect the identity of local surroundings and add to the overall quality of an area, whilst optimising the potential of a site to accommodate development.
  11. In relation to design, there are a diverse range of building styles, sizes, heights and roof forms in Westwood Road. As consequence the proposed building would not look out of place within the street scene provided it respected the

overall spacious and verdant character and appearance of the street scene and its immediate setting. Whilst the blue finish of part of the rear elevation would result in the building appearing unduly prominent in views from Cambridge Road, this is a matter that could be dealt with by condition, as could the precise colour and texture of all other external materials.

12. The site is located within an area with a PTAL score of 3. Consequently the Appeal scheme, which has a density of 149 dwellings per hectare, exceeds the density levels set out in policy CS5 of the Core Strategy. However, as stated in policy CS5 of the Core Strategy, in assessing schemes factors including the need to protect and enhance the character of the neighbourhood; the quantity and quality of open space; accessibility and the efficient and effective use of land will be taken into account.
13. The proposed building would be five storeys in height and would be taller than the purpose built flats developments on either side. In itself the height of the proposed building would not be out of keeping with the locality, having regard to the varied heights of other buildings within Westwood Road. However, at its widest point the proposed building would project to within 1.5 metres of the side boundaries of the site and the gap between the proposed building and the existing building at 12 Westwood Road would in parts be less than three metres. Due to the combined height and depth of the proposed building, together with its proximity to No.12 the relationship between the two buildings would appear cramped.
14. The proposed bin store, parking and access area to the front of the site would project almost up to the front boundary of the site, leaving verges of one metre or less for soft planting. To the sides of the bin store and access there would be gaps of between 0.5 and 1.5 metres. The grass gaps between the hard surfaced areas and the windows/doors serving the ground and first floor flats would range between just four and six metres.
15. As a consequence the front of the site would be dominated by hard surfacing and parked cars, the situation being exacerbated by the prominent siting of the proposed bin store. Taking into account the need to provide some on-site communal open space and to provide open outlooks for the occupants of the proposed flats there would be little room available to provide soft landscaping and tree planting on the site.
16. It is noted that concern was raised by the City Design Group Leader relating to the inadequate level of soft landscaping at the front of the site, in relation to the layout plan originally submitted with the application. With the current substitute plan the opportunity for soft landscaping across the frontage of the site is materially reduced. There would be insufficient room for a meaningful soft planting scheme, including replacement trees of various stature and significance.
17. This includes space for the suitable replacement of the existing Ash Tree, which is the subject of a Tree Preservation Order. This is a large mature tree which makes a material contribution to the character and appearance of the locality and reflects the significant stature of many of the trees within Westwood Road.
18. Similarly, to the rear of the proposed building there would be little room for a meaningful soft landscaped scheme, without impacting on the level of

communal garden area available for residents. The rear of the site would be dominated by hard surfacing, parking and a prominently sited cycle store.

19. For these reasons the proposed building would appear unduly cramped, prominent and stark within the street scene and the rear garden environment. The overall development would be visually over-intensive and would seriously and unacceptably undermine the prevailing spacious and verdant character and appearance of Westwood Road and the area. The harm that would be caused to the character and appearance of the area would outweigh the benefits of providing 18 two and three bedroom flats on this site.
20. I conclude on the first main issue that the proposal would unacceptably harm the character and appearance of the area. It would therefore conflict with policies SDP1, SDP7 and SDP9 of the Local Plan, policies CS5, CS13, CS16 of the Core Strategy, the SPD and the NPPF.

*Living conditions of existing residents*

21. Amongst other things policies SDP1 of the Local Plan, policies CS18 and CS19 of the Core Strategy and the NPPF seek to protect and where possible enhance urban areas and the living conditions of existing and future residents where possible. Patterns and forms of development that reduce the need to travel are promoted, as is making the best use of existing infrastructure. Provision for parking should reflect the needs arising from the development, having regard to the location and accessibility of the site.
22. In accordance with the Council's adopted Parking Standards Supplementary Planning Document 2011 (PSSPD) the maximum on-site parking provision for a new two/three bedroom dwelling is two spaces. The proposal makes provision for 18 on-site parking spaces which is some 50% below the maximum permitted.
23. This is consistent with the on-site parking provision found acceptable for the flats scheme at 11 Westwood Road and is in excess of the on-site parking permitted in relation to a similar flats scheme approved on the Appeal site in 2009. Although material, I give these decisions limited weight. This is because the site at 11 Westwood Road does not adjoin a residents parking zone and the Appeal scheme needs to be assessed having regard to the prevailing planning policies and advice and not those which existed in 2009.
24. As pointed out in the Officer's report the site is located within 800 metres of Portswood District Centre and less than 200 metres from a high accessibility bus corridor. In addition, 20 secure cycle storage spaces are provided, which exceeds the minimum cycle storage standard set out in the PSSPD. The evening and daytime parking stress surveys undertaken by the Appellant clearly indicate that on street parking in the vicinity of the Appeal site has spare capacity.
25. Having regard to the size of the proposed rear parking area the likely number of vehicles accessing and exiting it would result in a material increase in traffic along Cambridge Road. However, vehicle speeds are necessarily slow along this road and drivers accessing and exiting the proposed car park would not need to turn their vehicles within the road, which is a public highway. Any

emergency or servicing vehicles could access the site from Westwood Road, which is a wide through road.

26. Notwithstanding this, having regard to the number and size of the flats proposed, together with the limited number of on-site parking spaces, the scheme would be highly likely to generate additional demand for on-street parking in the locality. This is irrespective of whether or not car ownership levels are relatively low in this part of the city.
27. This could potentially result in inconvenience, congestion and associated noise and disturbance for residents along Cambridge Road and the adjacent roads to the south. Both two way traffic and on street turning along Cambridge Road is constrained and the streets to the south experience some congestion resulting from on-street parking.
28. However, Cambridge Road and the adjacent roads to the south are subject to residents on-street parking controls. The Council has confirmed that it is the Council's procedure to not issue car parking permits to new residential development. As a consequence the additional demand for daytime on-street parking which would result from the proposed development would not have a material impact on the living conditions of the residents of those roads.
29. As demonstrated by the parking stress surveys, ample on-street parking spaces are available in Westwood Road at night. Such spaces are both convenient and readily accessible for occupants of/visitors to the proposed flats. Conversely fewer on-street parking spaces are available in Cambridge Road and the roads to the south at night. This, together with the restricted width of the roads and the constraints imposed by the residents parking zone would make these roads less attractive for parking at night.
30. Finally, the Council has commented that the daytime on-street parking stress survey includes roads which are subject to residents parking permits. This serves to highlight that the occupants of the proposed flats would not impact on their availability for existing residents. As such the inclusion of these roads in the daytime survey was appropriate when assessing the impact of the scheme on the living conditions of existing residents.
31. For these reasons I conclude on the second main issue that the scheme would not materially or unacceptably harm the living conditions of the existing residents in Cambridge Road and the local area. In this respect the scheme would comply with policies SDP1 of the Local Plan, policies CS18 and CS19 of the Core Strategy, the PSSPD and the NPPF.

*Living conditions of proposed residents*

32. The proposed 2.No. three bedroom flats on the fourth floor would each have direct access to their own private roof terraces, which would all exceed 20m<sup>2</sup>. These terraces would provide suitable private amenity space for the occupiers of those flats.
33. The flats on the first, second and third floors would each have access to 3m<sup>2</sup> private balconies. In addition, they would have access to the communal garden areas on the ground floor. However, much of this communal garden space is in close proximity to the living room and bedroom windows of the

ground floor flats and the parking spaces. As a result its quality would be poor, other than for use by the occupants of the ground floor flats. The shortcomings of the communal garden areas for the upper floor residents serve to highlight the cramped and over-developed nature of the proposed scheme.

34. To some extent the shortcomings of the quantity and quality of garden space for the occupants of the first, second and third floor flats would be compensated for by the close proximity Southampton Common. However, public open space is not the same as private open space and in particular residents of the proposed family sized flats should have satisfactory access to private/private communal open space.
35. I conclude on the third main issue that the proposed scheme would fail to provide satisfactory living conditions for its occupiers and would thus conflict with policy SDP1 of the Local Plan, policy CS18 of the Core Strategy and the NPPF.

#### *Unilateral Undertaking*

36. The submitted two part Unilateral Undertaking aims to secure financial contributions towards meeting various needs and mitigating the impact of the proposed development.
37. The need for a highway condition survey and a Carbon Offset Fund are clearly and adequately set out in the Council's Statement of Case and appropriately provided for in the Unilateral Undertaking. As such they would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning set out in the NPPF.
38. Regarding affordable housing and viability the Council has stated that normally the proposed development would be required to make provision for three affordable housing units. However, in accordance with the views of the District Valuation Service, the Council accepts that this would affect the viability of the scheme.
39. I have no reason to disagree with the conclusions of the District Valuation Office, which are justified in the letter prepared by DVS Property Services dated 7 December 2015. It sets out a requirement for a financial contribution of £23,152.00 to meet various S106 requirements along with a requirement for the viability of the scheme to be reassessed if it is not delivered within a certain timescale.
40. The specific requirement in relation to the Solent Disturbance Mitigation Project and the nature of the necessary highway works are set out in the Council's Statement of Case and appear both reasonable and justified. However, the Council has not assessed the additional highway infrastructure contribution it is now seeking in relation to viability. Therefore the additional contribution has not been justified. It would also appear that the Appellant's financial contribution towards the Solent Disturbance Mitigation Project is excessive.
41. Overall I find that the highway contribution set out in the Unilateral Undertaking would be fairly and reasonably related to the development proposed and that it passes the statutory tests. Whilst higher than necessary

the proposed Solent Disturbance Mitigation Project contribution would not amount to a reason for dismissing this Appeal.

42. As stated above, the Council has commented that its procedure is to not issue car parking permits to new residential developments. The Council has failed to demonstrate that it is necessary to also impose a covenant which would restrict access to parking permits on the Appeal building, which is located outside residents parking zones. As such I find that this aspect of the Unilateral Undertaking would fail the tests of need and reasonableness as set out in the NPPF.
43. The submitted Unilateral Undertaking allows for a review of the scheme's viability if the scheme is not completed within 24 months. It does not however set out the form and consequences of any viability review and so it is unclear what any such review would achieve. As such the Unilateral Undertaking does not secure its objective in the public interest.
44. In addition to the concerns I have regarding some matters included in the Unilateral Undertaking, I have some concerns about the execution of the document itself and thus whether or not the Council could rely on it to secure the contributions/obligations. For example neither of the two signed documents is dated and, other than the Title Plan Reference 12727, no copies of the title documents have been submitted.
45. Finally, the concerns expressed by the Appellant regarding difficulties in obtaining information from the Council regarding various contributions for inclusion in the Unilateral Undertaking are noted. However, they are not material to the acceptability of otherwise of the submitted Unilateral Undertaking.
46. As I intend to dismiss the Appeal for other reasons, I have not pursued these matters further with the main parties. Nonetheless, as it stands, and for the reason set out above, I am not satisfied that the submitted Unilateral Undertaking would make adequate provision for an appropriate viability review and the additional infrastructure to meet the needs arising from the development in accordance with policies CS15, CS18, CS19, CS20 and CS22, CS25 of the Core Strategy, policy SDP1 of the Local Plan the Council's Developer Contributions SDP the Conservation of habitats and Species Regulations 2010 and the NPPF.

#### *Other matters*

47. The windows in the side elevations of the proposed flats would be secondary and as such could be obscure glazed and have restricted opening. This could be secured through the imposition of a condition and would ensure that the proposal did not result in a material loss of privacy for the occupants of the adjacent buildings.
48. The separation distances between the proposed building and the habitable windows in the adjacent buildings are sufficient to ensure the scheme would not have an unacceptable impact on the living conditions of existing residents due to loss of daylight or sunlight. It is acknowledged that the proposed building would have an enclosing impact on the outlook from various windows at Kerrigan Court. However, a gap of at least 5.4 metres would be maintained

between the proposed building and the flats at Kerrigan Court, which would continue to benefit from open aspects to the front and rear. Accordingly the Appeal scheme would not have an unacceptable impact on the living conditions of the occupants of Kerrigan Court.

49. Finally, it is accepted that the construction of the proposed development could potentially cause levels of noise, dust, traffic and other disturbance that could cause a nuisance for local residents. Such nuisance could be minimised by the imposition of conditions relating to working/delivery hours, on-site parking and turning, wheel washing and no burning on site. This would offer reasonable protection for residents during the construction period.

### **Conclusion**

50. The conclusions on the first, third and fourth main issues represent compelling reasons for dismissing this Appeal, which could not be satisfactorily addressed through the imposition of conditions.

*Elizabeth Lawrence*

INSPECTOR