The Planning Inspectorate

# Appeal Decision

Site visit made on 17 January 2017

**by JP Roberts BSc(Hons), LLB(Hons), MRTPI**

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

**Decision date: 23rd February 2017**

**Appeal Ref: APP/D1780/W/16/3159983**
**11 Lawn Road, Southampton SO17 2EX**

- 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 VK Deptford Broadway Ltd against the decision of Southampton City Council.
- The application Ref 16/00740/FUL, dated 28 April 2016, was refused by notice dated 19 September 2016.
- The development proposed is the erection of a 2.5 storey building to provide 10 flats (3 x three bed; 3 x two bed; 3 x one bed; 1 x studio flat) with associated parking and garages for 7 cars and cycle / refuse storage following the demolition of the existing bungalow.

## Decision

1. The appeal is allowed and planning permission is granted for the re-development of the site, demolition of the existing bungalow and erection of a 3-storey replacement building to provide 9 flats (2 x three bedroom; 3 x two bedroom; 3 x one bedroom and 1 x studio flat) with associated parking (6 spaces) and other facilities at 11 Lawn Road, Southampton SO17 2EX in accordance with the terms of the application, Ref 16/00740/FUL, dated 28 April 2016, subject to the conditions set out in the Annex to this decision.

## Preliminary matters

2. The application was amended during its consideration by the Council, including reducing the number of flats to 9 and the number of parking spaces to 6. I have taken the amended plans into account in my decision.

3. The appellants submitted a planning obligation under Section 106 of the Town and Country Planning Act 1990. The obligation makes provision for payments to mitigate the effect of the development on the Solent Coastline Special Protection Areas, to mitigate transport impacts and to safeguard the condition of the local highway network. The obligation addresses the second reason for refusal and the Council has confirmed that it is satisfied that it addresses its concerns raised in the relevant reason for refusal. I shall refer to this in more detail below.

## Main Issues

4. The main issues are:

   i) the effect of the proposal on the character and appearance of the surrounding residential area, and

ii) whether the proposal would provide satisfactory living conditions for the intended occupiers of the development, with particular regard to the provision of amenity space.

## Reasons

*Character and appearance*

5. Whilst the south side of Lawn Road is typified by mainly large family dwellings, the north side has undergone considerable change, and large buildings are the norm. At either ends of the road are substantial care homes, St Anne's to the west and Lawnbrook to the east, which are three storey buildings of considerable width and depth. The intervening buildings are mostly flats, so that the bungalow on the appeal site is an incongruous exception to this mix.

6. The proposal would largely emulate the scale of the other buildings on this part of Lawn Road. The building would be cut into the site so that its height would be comparable to that of its neighbours. It would be slightly deeper than its neighbours, but this would not be an obvious feature in the street scene, and it would not project as far as either of the care homes. I consider that the proposal would have only a small impact on the sense of openness in the hinterland of the Lawn Road houses, which in any event has little public value, being almost wholly hidden from public view.

7. The Council's Residential Design Guide Supplementary Planning Document (SPD) (September 2006) says that the footprint of buildings and hard surfaced areas should not exceed 50% of the site, unless the quality of the hard landscaping contributes significantly to the creation of a high quality place around the building. The Council's uncontested contention is that the proposal would occupy 52% of the site. To my mind, the extent of site coverage in excess of that sought by the guidance is very small, and having regard to the surrounding context where there are several examples of much greater site coverage, it would not result in harm to the area's appearance.

8. The design would incorporate a flat crown roof and a catslide roof at the rear. There are a number of flat crown roofs in the area, including on the next door property at 13 Lawn Road, and a larger one at 5 Lawn Road, but there is a mix in the area, including pitched and hipped roofs. There are no catslide roofs visible from the road, but these are typically found on side and rear parts of buildings, as in this case. St Anne's has striking tall monopitched roof elements, together with mansards, neither of which are typical of the road, but nevertheless contribute to the pleasant mix. The proposal would not look out of place in such a varied context.

9. Most of the front of the site would be given over to hard surfacing. Whilst it is proposed to use a green grid for much of the parking area, in my experience, this is not always successful, and I attach only limited weight to its potential to adding greenery to the site frontage. Even so, few of the properties on this side of Lawn Road have significant landscaping between the road and the buildings. Moreover, of all the properties on this side of Lawn Road, the appeal site benefits from the most significant tree planting along the front boundary, the canopies of which spread across the whole width of the site. These trees are to be retained, and particularly when in leaf, they would make a very positive contribution to the appearance of the area and act as a green screen to the building. This would compensate for the lack of landscaping elsewhere.

10. I therefore conclude on the main issue that the proposal would not cause material harm to the character and appearance of the surrounding residential area, or conflict with saved Policies SDP1, SDP7 and SDP9 of the City of Southampton Local Plan Review (LPR), adopted in 2006 (but updated and adopted for development management purposes in 2015), which respectively deal with quality design, character and appearance and scale, massing and appearance. It would also be consistent with Policies CS5 and CS13 of the adopted Southampton Core Strategy (CS) (2015), which in turn deal with net densities (and a criterion concerning character) and fundamentals of design. The small conflict with the SPD is justified for the reasons explained above.

*Living conditions*

11. The amount of amenity space provided would exceed the Council's standard set out in CS Policy CS16 of 20 sq.m. per flat. The amenity area would lie to the north of the proposed building, and the northernmost parts would enjoy good levels of sunlight for much of the day. It is a useable shape and is more or less flat, which enables it to be readily used.

12. A spruce tree lies in the north-east corner of the site, under which it is proposed to provide a bicycle store, in the approximate position of the existing summer house. I do not see the spruce as being a serious impediment to the use of the garden. Its canopy is high enough in parts for children to play under, and it would offer useful shade in hot weather, consistent with the advice in the Council's SPD which aims to ensure that gardens include locations for sitting outside in sun and in shade. Although the tree is fairly large, it does not have substantial foliage, and light can penetrate its branches. I consider that it would add to the amenity offered by the garden. Part of the rear of the site is also beneath the canopy of a large tree located in a neighbouring garden, but again, due to the height of the canopy and its limited spread, I do not see that as a significant impediment to the enjoyment of the amenity area.

13. There is also some merit in the appellants' suggestion that alternative or additional planting could be provided, which could be resolved through the submission of landscaping details subject of a condition. I therefore find that the proposal would provide satisfactory living conditions for the occupiers of the proposed flats, and would not conflict with the policies I have referred to above.

**Other matters**

14. Occupiers of the proposed flats would face the flats and gardens of 16 Spring Crescent. However, there would be a substantial gap between the rear elevation and the boundary of the site, on the other side of which is a garage and parking area, well in excess of the standards set out in the SPD. The gardens of that property would be screened from overlooking by the garage block. Thus there would be sufficient distance to ensure that the occupiers of 16 Spring Crescent would not be overlooked to a harmful degree.

15. I have also had regard to concerns raised about parking, highway congestion and noise, but these are insufficient to alter my conclusion.

**Conditions and obligation**

16. The Council seeks financial contributions towards site specific transport works for highway improvements in the vicinity of the site, which it says are

necessary to make the development acceptable in highway terms. The Council has identified improvements to a nearby road crossing, which would improve traffic flows and reduce congestion within the vicinity of the site, to serve the new residents who will need to use the crossing to access nearby facilities. The Council seeks a contribution of £15,000 to fund the provision of sensors to detect the flow of traffic. It has not been explained how this level of contribution has been arrived at, but it seems to me that it is likely to fund all or most of the works proposed, and is proportionate to the scale and nature of the development. It also chimes with national and local policies aimed at promoting travel other than by car.

17. The site lies within an area where evidence suggests that additional recreational pressure would have an adverse impact on the integrity of three sites of European importance, the Solent Special Protection Areas, designated for their importance as bird habitats. The Conservation of Habitats and Species Regulations 2010 enact European legislation and require that plans or projects (either on their own or cumulatively) should not adversely affect the integrity of the site, unless justified for reasons which do not apply here. CS Policies CS22 and CS25 respectively aim to ensure that development does not adversely affect the integrity of international designations, and that the necessary mitigation measures are provided, and to seek developer contributions to meet infrastructure needs arising from developments. The level of contribution is set in the Solent Disturbance Mitigation Project. Accordingly, I find that the SPA contribution is necessary to enable the development to proceed.

18. The Council also seeks measures to ensure that the condition of the highway is protected against damage. Whilst the Highway Authority is responsible for the general maintenance of the public highway, where specific damage arises from a development, it seems reasonable that the burden of carrying out repairs should not fall on the public purse. On the evidence before me, I consider that the requirement is necessary and reasonable, and that this, and the other provisions of the obligation satisfy the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010.

19. The Council has suggested conditions which I have assessed in the light of national guidance. A condition to require the development to be carried out in accordance with the approved plans is needed to ensure certainty. I have amended the suggested conditions where necessary in the interests of conciseness, precision or enforceability.

20. Details of materials, levels, tree protection measures, and landscaping are needed in the interest of appearance. A programme of archaeological works is necessary to protect potential heritage interests.

21. The Written Ministerial Statement of 25 March 2015 set out a revised approach to housing technical standards, and in respect of energy and water efficiency, provided planning authorities with relevant policies in a development plan to apply the new optional technical standards, which engage higher requirements under the Building Regulations. I have amended the Council's suggested conditions to reflect this new approach.

22. Details of the methods for demolition and construction management, provisions relating to wheel-cleaning and a restriction on the hours of working are needed to protect neighbours' living conditions and highway safety. Conditions relating

to contaminated land and the importation of soils and other materials are needed to protect the health of occupiers.

23. Details of surface and foul water disposal are needed to ensure that the site is suitably drained, whilst conditions relating to nesting birds and habitat and species mitigation and enhancement measures are needed to protect and promote biodiversity.

24. A condition to require further details of cycle storage is unnecessary as adequate details have been provided. I shall impose a condition to ensure that the approved details are implemented.

25. Conditions relating to the provision of amenity space and access to it, and a requirement to provide obscure glazing are needed to provide satisfactory living conditions for occupiers and neighbours respectively. The submission and implementation of a refuse storage scheme is needed in the interests of appearance, living conditions and the sustainable treatment of waste.

**Conclusions**

26. For the reasons given above, I conclude that the appeal should be allowed.

*JP Roberts*

INSPECTOR

ANNEX

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: Refs: 2966/3/10, Rev C, 2966/3/21, Rev F, 2966/3/13, Rev G, 2966/3/14, Rev E, 2966/3/15, Rev E, 2966/3/16, Rev E, 2966/3/17, Rev , 2966/3/18, Rev E, 2966/3/19, Rev D, 2966/3/20 A" (100), Rev B, 2966/3/20 "A" (200), Rev B, 2966/3/21, Rev E, 2966/3/22, 2966/3/23, 2966/3/24, and 2966/4 cycles.

3) Notwithstanding the information shown on the approved drawings and application form, with the exception of site clearance, demolition and preparation works, no development works shall be carried out until a written schedule of external materials and finishes, including samples and sample panels where necessary, has been submitted to and approved in writing by the local planning authority. These shall include full details of the manufacturer's composition, types and colours of the materials to be used for external walls, windows, doors, rainwater goods, and the roof of the proposed buildings. The development shall be implemented only in accordance with the agreed details.

4) No development shall take place within the site until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation which has been submitted to and approved by the Local planning Authority.

5) The developer shall secure the completion of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local planning Authority.

6) The flats shall not be occupied until the Building Regulations Optional requirement in Approved Document G from Part G of Schedule 1 and Regulation 36(2)(b) to achieve a water efficiency standard of 110 litres per person per day has been complied with.

7) The flats shall not be occupied until the relevant requirements of level of energy performance equivalent to ENE1 level 4 of the Code for Sustainable Homes have been met and the details of compliance provided to the local planning authority.

8) Before the building is first occupied full details of facilities to be provided for the storage and removal of refuse from the premises including a refuse management plan together with the provision of suitable bins accessible with a level approach shall be submitted to and approved in writing by the local planning authority. The facilities shall include accommodation and the provision of separate bins for the separation of waste to enable recycling. The approved refuse and recycling storage shall be retained whilst the building is used for residential purposes.

9) The cycle storage facilities shown on plans and specifications Refs: 2966/3/12 F and 2966/4/cycles shall be provided prior to first occupation of the flats hereby approved and thereafter they shall be retained and made available for the storage of cycles at all times.

10) Details of the method and programming of the demolition of the existing property, including measures for the suppression of dust, shall be submitted to and approved by in writing by the local planning authority prior to the implementation of the scheme (including any site clearance and/or demolition works). The agreed scheme shall be carried out to the details as specified in the demolition programme unless otherwise agreed in writing by the local planning authority.

11) Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the local planning authority), a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved by the local planning authority. That scheme shall include all of the following phases, unless identified as unnecessary by the preceding phase and approved in writing by the local planning authority:

1. A desk top study including;

- historical and current sources of land contamination

- results of a walk-over survey identifying any evidence of land contamination

- identification of the potential contaminants associated with the above

- an initial conceptual site model of the site indicating sources, pathways and receptors

- a qualitative assessment of the likely risks

- any requirements for exploratory investigations.

2. A report of the findings of an exploratory site investigation, characterising the site and allowing for potential risks (as identified in phase 1) to be assessed.

3. A scheme of remediation detailing the remedial actions to be taken and how they will be implemented.

On completion of the works set out in (3) a verification report shall be submitted to the local planning authority confirming the remediation actions that have been undertaken in accordance with the approved scene of remediation and setting out any measures for maintenance, further monitoring, reporting and arrangements for contingency action. The verification report shall be approved by the local planning authority prior to the occupation or operational use of any stage of the development. Any changes to these agreed elements require the express consent of the local planning authority.

12) Only clean, uncontaminated soil, subsoil, rock, aggregate, brick rubble, crushed concrete and ceramic shall be brought onto the site for infilling and landscaping on the site. Any such materials imported on to the site must be accompanied by documentation to validate their quality and be submitted to the local planning authority for approval prior to the occupancy of the site.

13) The site shall be monitored for evidence of unsuspected contamination throughout construction. If potential contamination is encountered that has not previously been identified, no further development shall be carried out unless otherwise agreed in writing by the local planning

authority. Works shall not recommence until an assessment of the risks presented by the contamination has been undertaken and the details of the findings and any remedial actions has been submitted to and approved by the local planning authority. The development shall proceed in accordance with the agreed details unless otherwise agreed in writing by the local planning authority.

14) No building hereby permitted shall be occupied until foul surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in the non-statutory technical standards for SuDS published by Defra (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

- include a timetable for its implementation; and

- provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

15) During the period of the preparation of the site, excavation for foundations or services and the construction of the development, wheel cleaning facilities shall be available on the site and no lorry shall leave the site until its wheels are sufficiently clean to prevent mud being carried onto the highway.

16) No storage of goods including building materials, machinery and soil, shall take place underneath the crown spread of the trees to be retained on the site. There shall be no change in soil levels or routing of services through tree protection zones or within canopy spreads, whichever is greater. There shall be no fires on site and no discharge of chemical substances including petrol, diesel and cement mixings within the tree protection zones or within canopy spreads, whichever is greater.

17) All trees to be retained pursuant to any other condition of this decision notice shall be safeguarded during the course of all site works including preparation, demolition, excavation, and construction and building operations. No operation in connection with the development hereby permitted shall commence on site until the tree protection as agreed by the local planning authority has been erected. Details of the specification and position of all protective fencing shall be indicated on a site plan and agreed with the local planning authority in writing before any site works commence. The fencing shall be maintained in the agreed position until the building works are completed, or until such other time that may be agreed in writing by the local planning authority following which it shall be removed from the site.

18) No operation in connection with the development hereby permitted shall commence on site until a site specific Arboricultural Method Statement in respect of the protection of the trees during all aspects of work on site is submitted and agreed in writing by the local planning authority. The approved Statement shall be adhered to throughout the duration of the demolition and development works on site. The Method Statement shall include the following:

1. Specification for the installation of any additional root protection measures

2. Specification for the removal of any built structures, including hard surfacing, within protective fencing areas.

3. Specification for the construction of hard surfaces where they impinge on tree roots.

4. The location of site compounds, storage areas, car parking, site offices, site access, heavy/large vehicles (including cranes and piling rigs)

5. An arboricultural management strategy, to include details of any necessary tree surgery works, the timing and phasing of all arboricultural works and protection measures.

6. Specification for soft landscaping practices within tree protection zones or the canopy of the tree, whichever is greater.

The development hereby approved shall be carried out in accordance with the submitted Arboricultural Method Statement including the tree protection measures throughout the duration of the demolition and development works on site.

19) Notwithstanding the submitted details before the commencement of any site works a detailed landscaping scheme and implementation timetable shall be submitted, which includes:

i. proposed finished ground levels; car parking layouts; other vehicle or pedestrian access and circulations areas, hard surfacing materials and structures;

ii. a plan detailing the position and specification of external lighting;

iii. planting plans which show native planting; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/planting densities where appropriate;

iv. details of landscape planting of value to wildlife;

v. an accurate plot of all trees to be retained and to be lost;

vi. details of any proposed boundary treatment including plans showing the retention of the existing boundary wall; and

vii. a landscape management scheme.

20) Any trees, shrubs, seeded or turfed areas which die, fail to establish, are removed or become damaged or diseased, within a period of 5 years from the date of planting shall be replaced in the next planting season with others of a similar size and species unless the local planning authority gives written consent to any variation. The approved hard and soft landscaping scheme (including parking) for the whole site shall be

carried out prior to occupation of the building or during the first planting season following the full completion of building works, whichever is sooner. The approved scheme implemented shall be maintained for a minimum period of 5 years following its complete provision.

21) Prior to development commencing, including site clearance, the developer shall submit a programme of habitat and species mitigation and enhancement measures which unless otherwise agreed in writing by the local planning authority shall be implemented in accordance with the programme before any demolition work or site clearance takes place.

22) No clearance of vegetation likely to support nesting birds shall take place between 1 March and 31 August unless a method statement has been agreed in writing by the local planning authority and works implemented in accordance with the agreed details.

No development shall take place (excluding demolition and site set up) until further details of finished levels have been submitted to and approved in writing by the local planning authority. These details shall include Above Ordnance Datum (AOD) for the proposed finished ground levels across the site, building finished floor levels and building finished eaves and ridge height levels and shall be shown in relation to off-site AOD. The development shall be completed in accordance with these agreed details.

23) Prior to the commencement of any development a written construction environment management plan shall be submitted to and approved by the LPA. The plan shall contain method statements and site specific plans to prevent or minimise impacts from noise, vibration, dust and odour for all operations, as well as proposals to monitor these measures at the site boundary to ensure emissions are minimised beyond the site boundary. All specified measures shall be available and implemented during any processes for which those measures are required.

24) All works relating to the demolition, clearance and construction of the development hereby granted shall only take place between the hours of:

Monday to Friday 08:00 hours to 18:00 hours

Saturdays 09:00 hours to 13:00 hours

And at no time on Sundays and recognised public holidays.

Any works outside the permitted hours shall be confined to the internal preparations of the buildings without audible noise from outside the building, unless otherwise agreed in writing by the local planning authority.

25) The external amenity space serving the development hereby approved, and pedestrian access to it, shall be made available as a communal area prior to the first occupation of the development hereby permitted and shall be retained with access to it at all times for the use of the flat units.

All windows in the side elevations, located at first floor level and above of the hereby approved development, shall be obscurely glazed and fixed shut up to a height of 1.7 metres from the internal floor level before the development is first occupied. The windows shall be thereafter retained in this manner.