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## Appeal Decision

Site visit made on 28 January 2020

**by R J Jackson BA MPhil DMS MRTPI MCMI**

**an Inspector appointed by the Secretary of State**

**Decision date: 3 March 2020**

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**Appeal Ref: APP/D1780/W/19/3238305**

**16 Castle Road, Southampton, Hants SO18 1QQ**

- 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 Mike Fenner against the decision of Southampton City Council.
  - The application Ref 19/00012/FUL, dated 7 January 2019, was refused by notice dated 2 April 2019.
  - The development proposed is conversion of HMO (House in Multi Occupation) and self-contained flat to four self-contained one bedroom flats and one self-contained flat.
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### Decision

1. The appeal is dismissed.

### Procedural matters

2. The appeal application was made in the name of Mr and Mrs Mike Fenner, but the appeal was made in the name of Mr Fenner alone. Given Mr Fenner was one of the original applicants he has the right of appeal and the appeal is considered in his name alone.
3. The then applicants described the proposal as set out in the heading. However, the Council on the decision notice described it as "Proposed change of use of the ground and first floor to 4 x one bed flats". The main difference between the two being whether the existing use is included. This appeal decision is not the place to determine the lawful use of the existing building. This appeal will deal with the proposed use, that is for the conversion of the ground and first floors into four one-bedroom flats.

### Main Issues

4. The main issues are:
  - whether the proposal would result in the net loss of a family home;
  - the effect on the character and appearance of the area;
  - the effect on the living conditions of the occupiers of adjoining dwellings and of the proposed development in terms of noise and disturbance, privacy and outlook;
  - the effect on highway safety and the convenience of residents, both of the property and others nearby, in terms of parking; and

- the effect on habitat sites<sup>1</sup>.

## **Reasons**

### *The appeal site and proposal*

5. The appeal building has the external appearance of a dwelling. It is located on the northeastern side of Castle Road which gives the appearance of a residential street made up of single detached and semi-detached dwellings facing the street. There is a small "pocket park" a short distance to the southeast on the corner of Castle Road and Dell Road.
6. From the front the appeal property consists of a rectangular front elevation with accommodation on two floors including, what appears from the street, an integral single garage. I will describe these two floors as the ground and first floors. The property is on a steeply downwards sloping site, so to the rear there are three storeys of accommodation, and the garden is laid out in terraces with significant difference in levels between them. I will describe the lowest of the three storeys of accommodation as the lower ground floor.
7. The accommodation in the lower ground floor is occupied as a separate self-contained dwelling accessed from the rear garden. It is not proposed to change the use of this lower ground floor accommodation.
8. The proposal is to convert the accommodation on the ground and first floors to four one-bedroom flats divided horizontally and vertically using the existing front door for access, although there would be secondary doors for the two ground floor flats in the side elevations. The existing garage would be converted to habitable accommodation and form part of one of these flats. No elevations have been submitted, and although not explicit in the documentation, it would appear that the appellant considers that the necessary building works which would show the revised elevations could be resolved by a planning condition. This would also appear to be the case in relation to the elevations of the bicycle and bin stores which are shown in plan to be located in the southern corner of the site.
9. There is a small hardsurfaced area in front of the existing garage sloping down from the street, and steps down to the front door. The remainder of the area in front of the property is laid to grass. There is an approximately 1.2m high brick wall on the highway edge.

### *Loss of family dwelling*

10. Policy CS 16 of the Southampton City Council, Core Strategy (the SCS) indicates that the Council will maintain a mix of housing types and more and sustainable and balanced communities through, among other matters, no net loss of family homes on sites capable of accommodating a mix of residential units unless there are overriding policy considerations justifying this loss.
11. As set out above there is a fundamental difference between the parties as to whether the property should be considered as a House in Multiple Occupation (HMO) or a single dwelling, which is not for me to resolve, nor do I need to. This is because Policy CS 16 of the SCS refers to "sites capable of accommodating a mix of residential units" and it seems to me that this site is

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<sup>1</sup> As defined in the Glossary to the National Planning Policy Framework

capable of doing just that. Further, if it were an HMO, it would be permitted development<sup>2</sup> to convert the property into a dwellinghouse.

12. The site currently has a mix, that being the lower ground floor flat and the remainder of the accommodation, and therefore is capable of accommodating a mix of residential units, being a family house and the lower ground flat.
13. As such the proposal, therefore, is contrary to Policy CS 16 of the SCS. I will consider this further in the planning balance section of this decision below.

#### *Character and appearance*

14. The Council's concerns on this issue relate to the effect of the proposal on the area generally and from the effect of the introduction of the bicycle and bins stores on the street scene.
15. The Council has referred to its Residential Design Guide (the RDG) which was adopted in 2006. The Council indicates that this was adopted following public consultation. This states that it sets out key principles for retaining and enhancing the positive character of an area. This is in accordance with Policies SDP7 and SPD9 of the City of Southampton Local Plan Review (the LPR) which state development which would cause material harm to the character and/or appearance of an area will not be permitted, and that proposals should respect their surroundings in terms of the impact on surrounding land uses. Consequently, I am able to give the RDG significant weight.
16. The Council indicates that the site lies in an area of low accessibility and this is not disputed. Policy CS 5 indicates that net density levels in such an area should generally be in the range 35 to 50 dwellings per hectare so as to be appropriate for its context. The Council states that the proposal would result, allowing for the lower ground floor flat, in a density of 158 dwellings per hectare. The proposal would therefore be contrary to this part of Policy CS 5 of the SCS.
17. However, Policy CS 5 goes on to indicate that development will be assessed against six criteria. Of these, those relating character or conservation area appraisals and to flooding are not material. In relation to open space it has not been demonstrated that there is a deficiency in the area and given the proximity of the pocket park this would appear to be acceptable. As the site has a low Public Transport Accessibility Level this weighs against the proposal. The more intensive use of the site would make a more effective use of the land. However, as paragraph 122 of the National Planning Policy Framework (the Framework) makes clear planning decisions relating to the efficient use of land should take into account the desirability of maintaining an area's prevailing character and setting. Overall, I conclude that the density of the proposal would be harmful to the character and appearance of the area.
18. Although no elevations have been submitted, full plans of the proposal have been provided and these show that the garage door would be replaced by a window. The lack of elevations represents a less than ideal situation since local residents and other interested parties have been unable to comment on them. However, in the particular circumstances of this appeal, given the information provided, the provision of an appropriately styled window, resolved through a

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<sup>2</sup> Under Class L of Part 3, Schedule 2, Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

planning condition, to match that of the other windows on the front elevation, would result in the design of the resultant building being in keeping with the overall appearance of the area.

19. The Council also considers that the bicycle and bin stores would be intrusive into the street scene. Again, while elevational details have not been submitted, which would have aided consideration, I consider that locating appropriately sized and designed stores behind the existing front boundary wall and adjacent to vegetation would not be intrusive, particularly as this area slopes down from the road.
20. Notwithstanding that the physical changes to the building and the provision of bicycle and bin stores would be acceptable, I consider that the proposal would be harmful to the character and appearance of the area. As such it would be contrary to Policies SDP7 and SDP9 of the LPR as set out above. It would also be contrary to Policies CS5 and CS13 of the SCS which requires development to be of an appropriate density for its context, and integrate with its local surroundings. It would also be contrary to paragraph 122 of the Framework as set out above.

#### *Living conditions*

21. The Council's first concern relates to the increase in comings and goings in the area from what it sees as the current lawful use. While there would be likely to be more people going to and from the building, within the context of a conventional residential street, I consider that this would not be noticeable nor result in unacceptable noise and disturbance. That the entrance to the property would be towards the centre and some distance away from those on either side would ensure that there was separation of activity.
22. The relevant reason for refusal makes reference to the potential for direct overlooking into the nearest first floor side and bay windows of 18 Castle Road on the basis that the details of the elevations of the appeal property are not provided. This property is that immediately to the north. The proposed plans only show additional doors in the side elevations as secondary doors to the two ground floor flats. I am satisfied that appropriately designed doors would ensure that there was no loss of privacy and this can be resolved by condition. As secondary doors, the amount of movement to and from them would not give rise to unacceptable noise and disturbance for the occupiers of the properties on either side.
23. At the rear of the property there are the series of terraces and these could be used as sitting out areas for the occupiers of the flats. However, this is the situation at present and I conclude that any increase in overlooking would not be material.
24. The location of the bicycle and bin store in front of Flat 2 could give rise to the potential for noise and disturbance for the occupiers of that flat from those going to and from those facilities. However, the number of movements would be limited, and being at the front of the property would be heard in the context of the background noise of a residential street. Consequently, I conclude they would not give rise to an unacceptable level of noise and disturbance. The bin store is located the further from the dwelling so I am satisfied that this would not result in unacceptable smells for the occupiers of this flat. An appropriate design would ensure that the proposed stores would not result in a harmful

outlook for the occupiers of this dwelling, and as indicated above this could be resolved by condition.

25. As such the proposal would not give rise to unacceptable effects on the living conditions of the occupiers of the adjoining or proposed dwellings. Therefore, it would comply with Policies SDP1 and H7 of the LPR which states that planning permission will only be granted for development which does not unacceptably affect the health and amenity of the city's citizens and that planning permission will only be granted for residential development of the highest standards of quality and design. It would also comply with paragraph 127 of the Framework which states that planning decisions should create places with a high standard of amenity for existing and future users.

### *Parking*

26. The Council has referred to its adopted Parking Standards Supplementary Planning Document (the Parking SPD). The Parking SPD states its aim is to ensure that at all new developments, a suitable level of vehicle and cycle parking is provided in order to avoid the various problems that inadequate parking - for vehicles and cycles - can cause. As this is in accordance with Policy CS19 of the LPR which indicates that parking must have regard to the Council's maximum parking standards, I am able to give the Parking SPD significant weight.
27. The Parking SPD indicates that the four one-bedroom dwellings should have four spaces. If used as a four bedroom dwelling then the property would be expected to provide three spaces. The Parking SPD makes it clear it does not provide standards for HMOs, and thus I am not able to ascertain what standard would be applicable if that was the lawful use. Currently there is one space in front of the garage and one, assumedly, in the garage itself. The Council indicates that pursuant to the Parking SPD the proposal would result in an increased need for one space.
28. The Parking SPD goes on to indicate that on-street parking may count towards parking provision for development, but only if it meets various criteria. Included within these is where the developer has demonstrated through parking surveys, accumulation estimation, etc., that use of on-street parking will not lead to demand exceeding supply of on-street parking. No such surveys have been submitted, although the appellant indicates that he considers that there is ample on-street parking nearby, with the frontage to the pocket park being particularly available.
29. At the time of my site visit during the early afternoon of a weekday, there was a reasonable amount of parking on-street and I can understand that at evenings and weekends this is likely to increase. Most people will look to park in close proximity to their dwelling and providing insufficient parking as part of a development could lead to highway safety dangers from inconsiderate parking, and to inconvenience for local residents as they have to park further away from their property.
30. While the appellant asserts that there is space for parking outside the pocket park, I have no evidence in front of me to demonstrate that this is the case. The Parking SPD makes it clear that for on-street parking to be counted it needs to be demonstrated that there is sufficient on-street parking available. Without this I cannot be satisfied that the proposal would not result in harm to

highway safety and the convenience of residents. As such the proposal would be contrary to Policy CS19 of the LPR and the Parking SPD as set out above. It would also be contrary to paragraph 105 of the Framework which sets out advice on parking standards.

#### *Habitats sites*

31. The site lies within 5.6km of the Special Protection Areas of the Solent Coastline and the New Forest. I am the competent authority for the purposes of the Conservation of Habitats and Species Regulations 2017 (as amended).
32. The Council explains that additional residential development within proximity of the habitats sites would have, in combination with other plans and projects, significant effects on the habitats sites through increased recreational disturbance from the occupiers and through increased nutrient load. Consequently, if I was minded to grant planning permission I would need to undertake an Appropriate Assessment to be satisfied that the proposal would not have a significant effect on the integrity of the sites.
33. The appellant seems to accept that contributions need to be made to provide mitigation for the effects of this development in that he indicates in his grounds of appeal that he would be happy to complete a Planning Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) if this appeal is allowed. I have not been advised that such an Obligation has been completed.
34. Therefore, I can only conclude that the proposal in combination with other plans and projects would have a harmful effect on the integrity of the habitat sites. As such it would be contrary to Policy CS22 of the SCS which requires development not to adversely affect the integrity of sites with international designations.

#### **Planning balance**

35. The appellant emphasizes the benefit of providing additional accommodation for which he asserts that there is great demand in the area. He also maintains that the building is unsuitable for family occupation due to the size of the buildings and the "unusable" terraced nature of the garden.
36. In relation to this latter point, while the terraced nature of the garden may not suit all families, it was originally designed for a family house and the house presumably occupied as such. I have not been provided with any evidence that the nature of the garden makes it unsuitable for family use. I have not been advised of any policy considerations justifying the loss of a family house so as to mean that the proposal would comply with Policy CS 16 of the SCS.
37. I take into account the benefit of providing the additional dwellings to which I give significant weight. However, this benefit does not alter that the proposal is, overall, contrary to the terms of the development plan and harmful to the character and appearance of the area. Further it has not been demonstrated that there is sufficient parking not to cause harm to highway safety and the convenience of residents, and the proposal would, in combination with other plans and projects, adversely affect the integrity of habitats sites. These other material considerations do not indicate that the determination should be made otherwise than in accordance with the development plan.

**Conclusion**

38. For the reasons given above I conclude that the appeal should be dismissed.

*RJ Jackson*

INSPECTOR