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# Appeal Decision

Site Visit made on 2 November 2012

**by E C Grace DipTP FRTPI FBEng PPIAAS**

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

**Decision date: 29 November 2012**

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**Appeal Ref: APP/D1780/A/12/2176620**

**14 Spring Crescent, Southampton SO17 2GA**

- 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 Dr J Jenkinson against the decision of Southampton City Council.
  - The application Ref 11/01874/FUL, dated 11/11/11, was refused by notice dated 23/3/12.
  - The development proposed is: demolition of the existing garage and conservatory to facilitate erection of two-storey side extensions and part two-storey, part single storey rear extension in connection with use as 2x5-bedroom houses (Class C3) or 2 Homes in Multiple Occupation (HMO) (Class C4).
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues in this case are whether the proposed development would:
  - a) result in harm to the appearance of this locally listed building, and
  - b) represent an over-intensive use of the site and introduce an imbalance in the housing mix in the locality.

## Reasons

3. The existing property is an attractive Georgian style villa that occupies a generous deep plot with mature landscaping, including frontage planting and some protected trees in the rear garden. The building is set back about 15m from the highway, with much of its front garden comprising a gravelled parking area. There is a lean-to single storey garage structure to the side, with a garden room behind and a modern conservatory on the rear elevation.
4. The application replaces a previous larger scheme of extensions and conversion to form a terrace of three houses. It has evolved following consultations with the Council's officers, which led to a recommendation to grant conditional permission for this proposal, but it was refused by members.
5. The property was designated as a Locally Listed Building on 12 October 1998, when it was recorded as being a house, but it has been in use as an HMO since it was acquired by the appellant in 2004. Its main fabric has been largely retained intact and it is the only building in the immediate locality that is so recognised. The Council regard it as an important survivor from the time this was a Victorian suburb of detached villas in copious grounds. Local Plan Policy HE4 indicates that development proposals involving demolition or alteration of Locally Listed Buildings will be resisted.

6. It is apparent that this was regarded by officers as being a preferable scheme to the earlier proposal and the proposed extensions would preserve the front elevation. However, the remaining façades would be lost in a modern structure that would largely envelope and subsume the original. Although the detailed design incorporates fenestration that reflects the architectural style of the host dwelling, the size and proportions of the villa would be drastically changed, particularly by the 2 storey rear extension, in a manner which I regard as harming its scale and appearance. Accordingly, I find this would contravene Core Strategy Policies CS13, Local Plan Policies SDP7 and HE4, and Sections 2.3 and 2.5 of the Residential Design Guide SPD. The recently published National Planning Policy Framework also recognises the importance of heritage assets and that they are an irreplaceable resource.
7. Turning to the second issue, no objection in principle has been raised by the Council to the use of the building as two C3 dwellings. However, it is in respect of its use as 2 HMOs that there is particular objection. High concentrations of HMOs in close proximity to the city's two universities have contributed to social and environmental problems in some areas. The Council were in the process of making a city-wide Article 4 Direction regarding HMO Use and preparing a Supplementary Planning Document (SPD) to accompany it during their consideration of this application. In fact, I note it was refused on the same date the Article 4 Direction came into force and the SPD was adopted following a full public consultation exercise. Accordingly these carry significant weight.
8. The former removed permitted development rights to turn a C3 house to a C4 HMO, while the latter prescribes a 10% limit for HMOs in this part of the city and sets out a methodology by which this is to be assessed. The Council have assessed that the proportion of HMOs in the vicinity of the site is already 43% and hence the prescribed limit is already exceeded. The proposal would lead to the establishment of 2 HMOs on this site and thus further intensify such uses in this locality. Representations from settled residents in Spring Crescent and Councillors indicate they are already subjected to intolerable levels of parking, litter, noise and disturbance from the present level of HMO properties.
9. Although the appellant states the existing property is in lawful use as a HMO, the officer's report expresses the opinion that the authorised use of the site is as a single dwelling despite acknowledging it is currently occupied as a HMO. Despite the appellant's assertion that the proposal would not result in the loss of a dwelling, it is evident from the refusal reason that it is the intensification of the C4 uses which concerns the Council and the harm that would cause to the residential amenities of occupants of dwellings in the immediate locality.
10. The appellant claims that a further C4 use on the site would not give rise to an imbalance in the local community as the remaining housing mix of flats, houses and HMOs will be unaltered. He also considers the SPD is not aimed towards the development of new C4 HMOs but rather the prevention of changes of use of existing properties. Nevertheless, it is apparent that Core Strategy Policy CS16 specifically relates to housing mix and type and indicates the Council will exercise control over HMOs, particularly those which provide accommodation for students. The Article 4 Direction and related SPD were adopted this year specifically to address the prevention of excessive concentrations of HMOs following changes to permitted development rights in 2010. I find it irrefutable that the proposal would lead to a greater concentration of HMO properties in Spring Crescent and thereby alter the balance in the housing mix.

11. I note the appellant's challenge to the HMO SPD in terms of the 10% threshold, particularly as this part of the city already exceeds that level and it appears to ignore local demographics. Furthermore, he maintains such a figure has not been supported in examples of appeal decisions relating to a similar draft SPD in neighbouring Portsmouth as it had no robust evidence base. However, although the Council's precise figure (43%) is disputed by the appellant in this instance, the HMOs far exceed the 10% level, as calculated by the SPD methodology and I thus agree that the proposal would further exacerbate the imbalance.
12. The appellant indicates he would be prepared to accept a condition limiting the number of occupants to 5 persons in each of the proposed C4 dwellings thereby limiting the total to 10 on the site, which he argues is only 2 more than could arise from occupation of the existing house as a C3 dwelling. However, I perceive it is not merely the numbers of persons residing at a HMO which concerns the Council and residents in the area, but the age composition of their occupants and lack of supervisory control over anti-social behaviour associated with them. Although the appellant states that he has received no complaints about his existing tenants, the representations clearly set out local residents' grievances and photographic evidence has been supplied of overflowing bins and rubbish obstructing the pavement outside the premises. Notwithstanding the Council's recognition that HMOs fulfil a very important role in meeting housing needs in the city, they also have a stated objective to achieve more sustainable and balanced communities.
13. I therefore conclude that the proposal to extend and convert the property to use as two C4 HMOs would represent an over-intensification in use of the site and introduce an imbalance in the household composition and housing mix in the locality contrary to Local Plan Policies SDP1 and SDP7, Core Strategy Policy CS16 and the recently adopted HMO SPD.
14. For the reasons given above I conclude that the appeal should be dismissed.

*Edward Grace*

Inspector