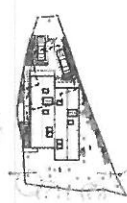


Revisions:  
 - 07.12.2010 Issued for client comments  
 A 21.02.2011 Issued for planning

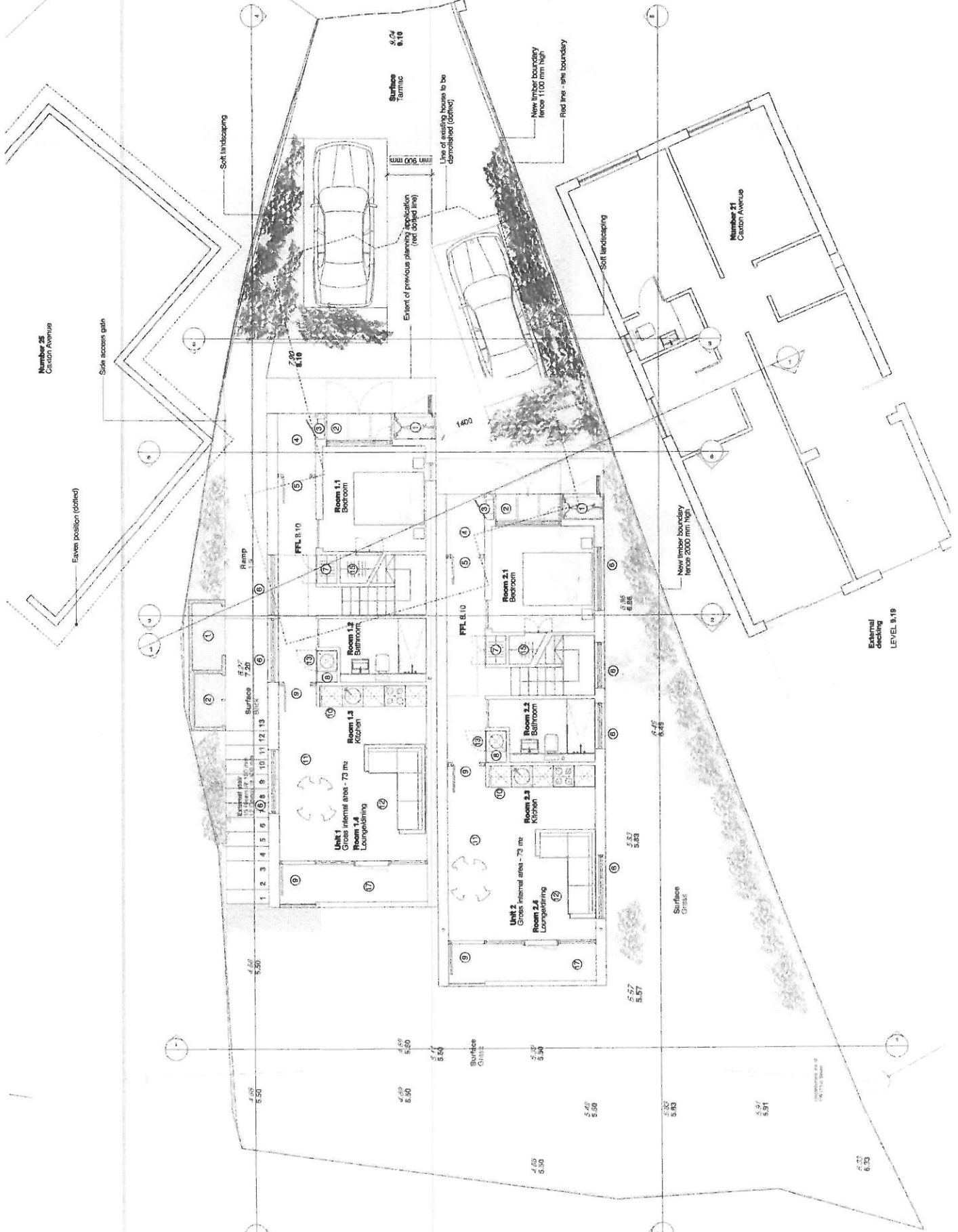
- Key**
- 1 Vertical shaft door
  - 2 Glass panel framed footer - deep reveal above
  - 3 Glass panel framed footer - deep reveal below
  - 4 Glass panel framed footer - deep reveal side
  - 5 Glass panel framed footer - deep reveal corner
  - 6 Glass panel framed footer - deep reveal edge
  - 7 Glass panel framed footer - deep reveal top
  - 8 Glass panel framed footer - deep reveal bottom
  - 9 Glass panel framed footer - deep reveal side
  - 10 Glass panel framed footer - deep reveal corner
  - 11 Glass panel framed footer - deep reveal edge
  - 12 Glass panel framed footer - deep reveal top
  - 13 Glass panel framed footer - deep reveal bottom
  - 14 Glass panel framed footer - deep reveal side
  - 15 Glass panel framed footer - deep reveal corner
  - 16 Glass panel framed footer - deep reveal edge
  - 17 Glass panel framed footer - deep reveal top
  - 18 Glass panel framed footer - deep reveal bottom

**Levels**

6.66 Existing level  
 6.65 Proposed level  
 6.64 Proposed level



Project	23 Curzon Avenue Southampton
Drawing title	Proposed drawings Ground floor plan
Drawing number	089_PLN_605
Discipline	PLANNING
Scale	1:100 @A3
Revision	A
Date of origin	OCTOBER 2010
www.designacb.com email: info@designacb.com phone: 01956 411450	
<b>design acb</b>	



PLANNING & DESIGN  
 24 FEB 2011  
 SUSSEX UNIVERSITY

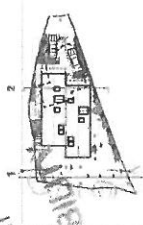
Revisions:  
 - 07.12.2013 Issued for client comments  
 A 21.02.2011 Issued for planning

Notes:  
 West elevation  
 KEY

1. Dry stacking paved system
2. 100mm concrete
3. 100mm concrete
4. 100mm concrete
5. 100mm concrete
6. 100mm concrete
7. 100mm concrete
8. 100mm concrete
9. 100mm concrete
10. 100mm concrete
11. 100mm concrete
12. 100mm concrete
13. 100mm concrete
14. 100mm concrete
15. 100mm concrete
16. 100mm concrete
17. 100mm concrete
18. 100mm concrete
19. 100mm concrete
20. 100mm concrete

Section 2-2  
 KEY

1. Double bedroom
2. Access to living area
3. Access to living area
4. Access to living area
5. Access to living area
6. Access to living area
7. Access to living area
8. Access to living area
9. Access to living area
10. Access to living area
11. Access to living area
12. Access to living area
13. Access to living area
14. Access to living area
15. Access to living area
16. Access to living area
17. Access to living area
18. Access to living area
19. Access to living area
20. Access to living area



© Design ACB

All drawings to be checked on site. All drawings are subject to change. Any discrepancy between contractors drawings and the original drawings shall be the responsibility of the contractor. The contractor shall be responsible for the health & safety of all workers employed on the site. These drawings are issued as a guide only and do not constitute a contract. The contractor shall be responsible for the health & safety of all workers employed on the site. The contractor shall be responsible for the health & safety of all workers employed on the site. The contractor shall be responsible for the health & safety of all workers employed on the site.

Project: 23 Canton Avenue  
 Southampton

Drawing title: Proposed drawings  
 West elevation & Section 2-2

Drawing Number: 089\_PLN\_008

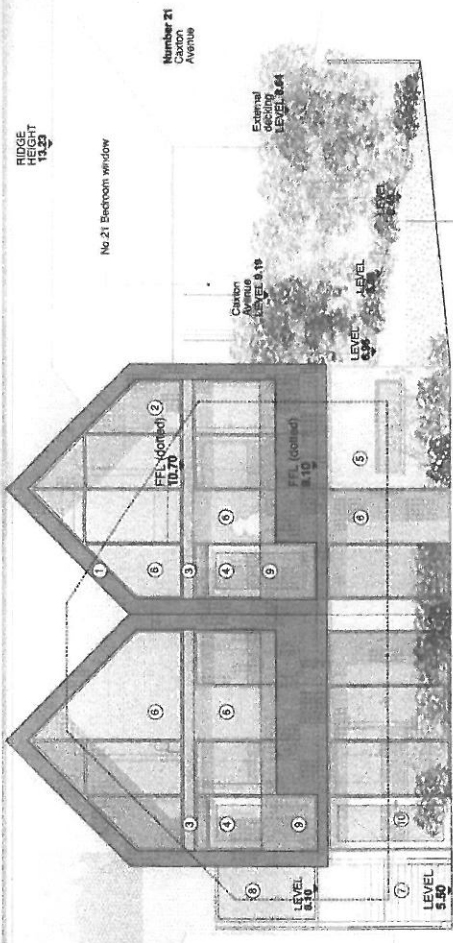
Scale: 1:100 @AS

Revision: A

Date of origin: OCTOBER 2010

www.designacb.com  
 012356 411450

design acb

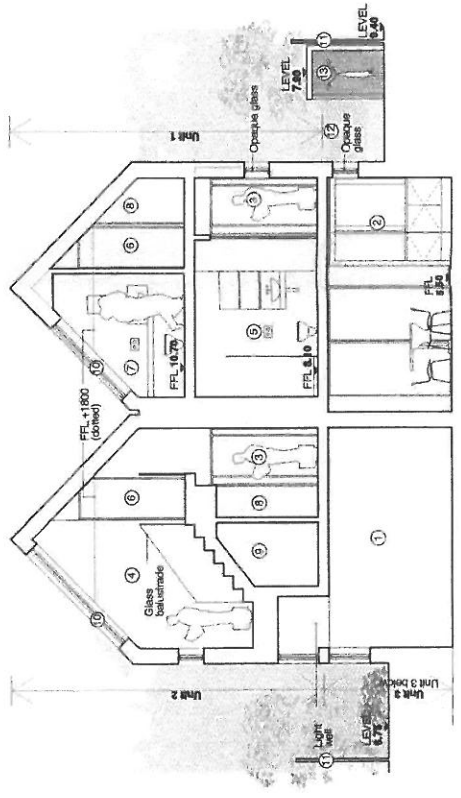


New timber boundary fence 2000 mm high

Unit 1  
 Unit 3 below

Unit 2  
 Unit 3 below

The Application Site  
 23 Canton Avenue



Unit 1  
 Unit 3 below

Unit 2  
 Unit 3 below

The Application Site  
 23 Canton Avenue

RIDGE HEIGHT 12.44

1 West elevation  
 1:100 @ AS

2 Section 2-2  
 1:100 @ AS

PLANNING  
 24 FEB 2011  
 08:31 AM  
 012356 411450

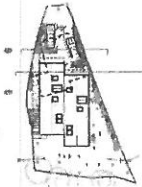
**Revisions:**

- 07.12.2010 Issued for client comments
- A 21.02.2011 Issued for planning

**Notes:**

- Key**
1. Clay cladding panel system
  2. PVC Aluminium framing
  3. Paint door
  4. Paint door
  5. Paint door
  6. Paint door
  7. Paint door
  8. Paint door
  9. Timber table access door

PLANNING  
24 FEB 2011  
UNAVAILABILITY



**design acb**

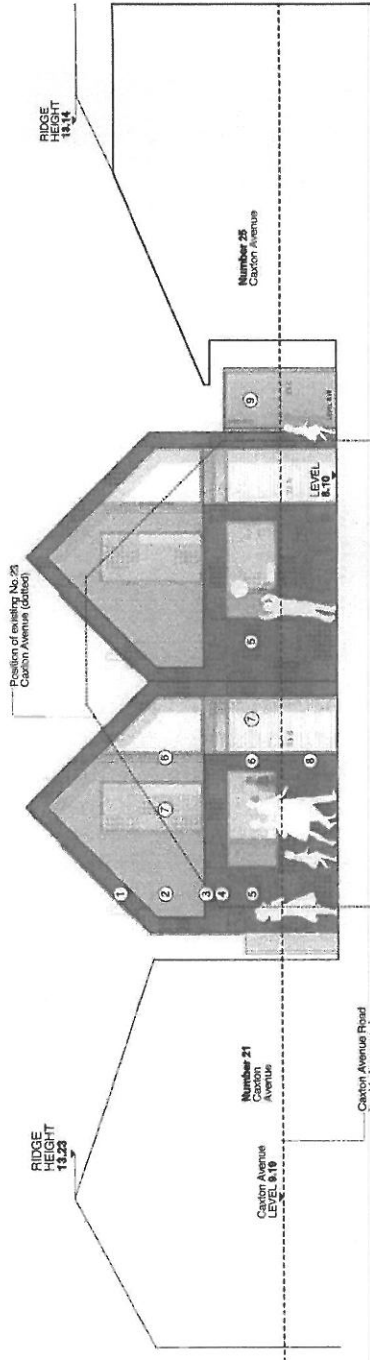
- All dimensions to be checked on site
- All drawings to be read in collaboration with engineer
- To be checked for compliance with relevant building codes
- To be checked for compliance with relevant safety standards
- To be checked for compliance with relevant fire safety standards
- To be checked for compliance with relevant health & safety standards
- To be checked for compliance with relevant accessibility standards
- To be checked for compliance with relevant environmental standards
- To be checked for compliance with relevant social standards
- To be checked for compliance with relevant cultural standards
- To be checked for compliance with relevant heritage standards
- To be checked for compliance with relevant landscape standards
- To be checked for compliance with relevant infrastructure standards
- To be checked for compliance with relevant utility standards
- To be checked for compliance with relevant transport standards
- To be checked for compliance with relevant telecommunications standards
- To be checked for compliance with relevant energy standards
- To be checked for compliance with relevant water standards
- To be checked for compliance with relevant waste standards
- To be checked for compliance with relevant air quality standards
- To be checked for compliance with relevant noise standards
- To be checked for compliance with relevant light standards
- To be checked for compliance with relevant electromagnetic interference standards
- To be checked for compliance with relevant radio frequency standards
- To be checked for compliance with relevant security standards
- To be checked for compliance with relevant privacy standards
- To be checked for compliance with relevant data protection standards
- To be checked for compliance with relevant intellectual property standards
- To be checked for compliance with relevant trademark standards
- To be checked for compliance with relevant copyright standards
- To be checked for compliance with relevant patent standards
- To be checked for compliance with relevant trademark standards
- To be checked for compliance with relevant copyright standards
- To be checked for compliance with relevant patent standards

The copyright of this drawing is held by design acb Ltd. No. 12 be used for any purpose without consent.

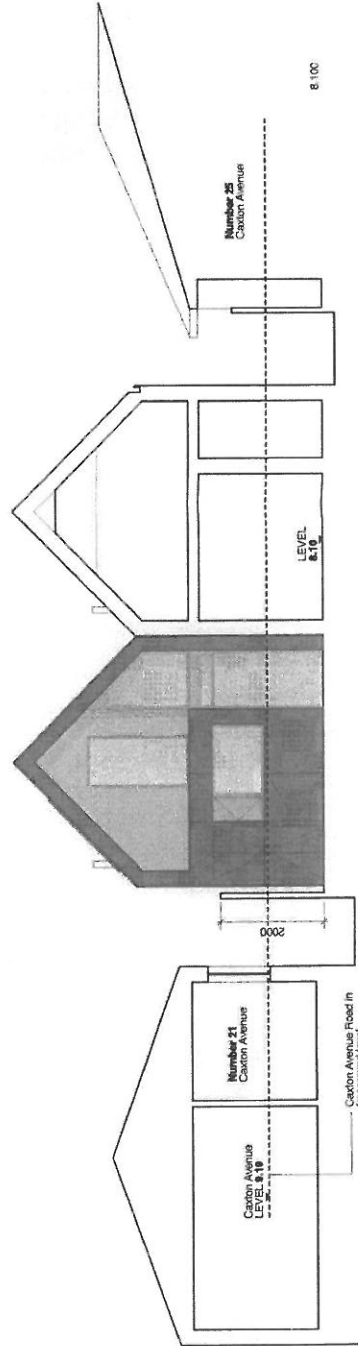
<b>Project</b>	22 Canton Avenue
<b>Drawing title</b>	Proposed drawings
<b>Drawing Number</b>	030_PLN_509
<b>Status</b>	PLANNING
<b>Scale</b>	1:100 @A3
<b>Revision</b>	A
<b>Date of origin</b>	OCTOBER 2010

www.designacb.com  
R 01255 41440

design acb



3 East elevation 1:100 @A3



6 Section 3.3 1:100 @A3



---

## Appeal Decision

Site visit made on 21 March 2012

**by R Barrett BSc(Hons) MSc, Dip Hist Cons, Dip UD, MRTPI, IHBC**

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

**Decision date: 23 July 2012**

---

**Appeal Ref: APP/D1780/A/11/2166444**  
**23 Caxton Avenue, Southampton, SO19 5LJ**

- 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 George Hatchard against the decision of Southampton City Council.
  - The application Ref 11/00336/FUL, dated 21 February 2011, was refused by notice dated 1 June 2011.
  - The development proposed consists of 2 three bed apartments and 1 two bed apartment to replace a semi-demolished post war bungalow at 23 Caxton Avenue, Southampton. Two car parking spaces have been provided as well as bin and bike provision.
- 

### Procedural Matters

1. An application for costs was made by Mr George Hatchard against Southampton City Council. This application is the subject of a separate decision.
2. The National Planning Policy Framework (The Framework) was published during the course of this appeal. The parties were given the opportunity for further comment following its publication. I received comments from both the Council and the appellant and these have been taken into account in my decision.
3. The Southampton Local Development Framework Core Strategy Development Plan Document (CS) was adopted in 2010 and the City of Southampton Local Plan Review (LP) was adopted in 2006. In addition, the Southampton City Council Residential Design Guide (RDG) was adopted in 2006. The policy context is therefore relatively up to date. In addition, I find that none of the development plan policies, nor planning guidance relevant to this appeal, appear to be at odds with the new Framework. Therefore, whilst the Framework policies have been considered they do not, in light of the facts of this case, alter my overall conclusion.

### Decision

4. The appeal is dismissed.

## **Main issues**

5. The main issues are the effect of the proposal on the character and appearance of the locality, and the living conditions of future occupiers of the lower ground floor apartment with regard to access.

## **Reasons**

### *Character and Appearance*

6. The appeal site includes a single storey, two bedroom, detached bungalow, which is currently vacant and in a state of disrepair. It has a larger than average rear garden and is set within a relatively quiet residential cul-de-sac of similar properties. The proposal would replace this building with a two storey building facing the street, which would accommodate three residential units and utilise the natural slope of the site to incorporate a lower ground floor level to the rear.
7. Caxton Avenue is generally comprised of houses, with the appearance of detached bungalows, which I am advised were built in the 1930's, set close to one another. There is some consistency in terms of their overall height, size as seen from the street, rhythm, building line, street frontage and design detail. They have a characteristic double gable at the front, set before a higher hipped roof form. Many properties have been altered over time, particularly with the addition of rear extensions, utilising the substantial drop in levels to the rear of the site to accommodate two storeys. Notwithstanding this, as none have dormers or roof extensions on the front, the overall appearance from the street is that of single storey detached houses with a consistent building line, set close to one another. Due to this, the street has a generally planned and cohesive feel.
8. Whilst there are limited gaps between the properties, generally, those within the vicinity of the appeal site, around the cul-de-sac, have relatively large rear gardens, which together with the mature trees at the rear, provide a more open and green backdrop to the locality. The rear garden of the appeal site is open to views from the allotments and the rear access road.
9. The proposal would result in the replacement of a fairly modest two bedroom dwelling with a larger building comprising three dwellings. This would be a significantly more intensive development than the existing, in a locality generally comprised of single family dwellings. For this reason, despite other developments of different and more intensive housing further afield, brought to my attention, the proposal incorporating three dwellings within one building on the appeal site, would be out of keeping with this aspect of the character of Caxton Avenue.
10. I acknowledge the imperatives of providing mixed and balanced communities as set out in Paragraph 6 of the Framework. I also am aware that the Council confirms that the proposal accords with the density standards set out in CS Policy CS5 for this location with medium accessibility to public transport. However, this proposal would fail to accord with the requirements of Section 7 of the Framework, which sets out the necessity to provide high standards of development that integrates with its surroundings, a matter that is reinforced by the general thrust of CS Policy CS 13, and saved LP Policies SDP 1, SDP 7 and SDP 9.

11. The proposal would result in a building that would be over one metre higher than the existing building, although, it would have a ridge and eaves height above that of both of the adjacent properties. However, the proposal would be substantially set back within the site at a lower level than the street, which would reduce the impact of its height on the street scene. In addition, the relationship of the proposal to its neighbours may be similar to others in the cul-de-sac in terms of eaves and ridge height. The appeal site is positioned at a low level in Caxton Avenue and in a corner site; matters that together with the siting of the proposal work to reduce the impact of its height.
12. However, the variations in the existing ridge and eaves heights of buildings in the cul-de-sac, are generally due to changes in the slope of the land with a general decrease in overall ridge and eaves height from the east of the cul-de-sac to the west, as viewed from its entrance. Existing variations are subtle, and generally have a consistent and characteristic rhythm in line with the change in ground level. They serve to enliven the street scene. The difference in the proposed ridge and eaves height of the appeal proposal, with the adjacent properties, would not be due to the ground level and would not follow the generally established pattern of heights in the cul-de-sac. As the land is lower and relatively level at this point in the cul-de-sac, this would not be characteristic of the locality. For this reason the proposal would jar in the street scene. I make this judgement, taking into account the effect of the raised parking decks in front of some properties in the cul-de-sac and the impact that these have on the apparent height of the buildings.
13. My concern is also for the mass and upright form of the proposal in relation to its surroundings. The appellant suggests that the proposal would have a single storey massing when viewed from the street. This may be the case in longer range views. However, the mass of the proposal, and its two levels of accommodation fronting the street, including the lower level, which would be below the level of the street, would be apparent at close range. Notwithstanding that the proposal would be substantially set back within the appeal site, these views could be appreciated from within the small cul-de-sac, immediately in front of the appeal site and from the adjacent properties. In this way, I consider that the proposal would have the appearance of a two storey building at close range, which would fail to accord with the single storey, low density suburban character of the locality. Due to this, the proposal would appear as prominent and out of character in this street scene, which has a uniform character of single storey buildings fronting the street.
14. The impact of the proposal on the street scene would be increased by the prominence of the twin steeply pitched roof form. Whilst I acknowledge that this would reflect the double pitch roof form of the surrounding development, which is an aspect of the area's local distinctiveness, it would have a much more vertical emphasis, more upright form and a much steeper pitch, which in combination with the proposal's height and mass, would be uncharacteristic in this setting. Notwithstanding the generally high design standard of the proposal and the clever exploitation of the drop of the land, the apparent height, scale and mass of the proposal is unacceptable and would significantly harm the character and appearance of the locality.
15. The combination of the above matters would not be overcome by the siting of the proposal, which would be substantially set back within the site at a lower level to the street, or the position of the appeal site at a low level in Caxton

- Avenue. Whilst the appellant suggests that this is a corner site within Caxton Avenue, the proposal, for the above reasons, would still appear as prominent in the street scene.
16. The Council has also raised concern regarding the setting back of the proposal within the site. This would fail to replicate the consistency in building line of existing properties that effectively enclose the street at present. The set back would leave a considerably larger gap in the street frontage and would create an uncharacteristic break in the building line in the cul-de-sac. There would be limited scope for additional planting, which is shown on the submitted plans, due to the hardsurface requirement for two car parking spaces and vehicle and pedestrian access arrangements. Whilst the proposed planting may help to soften the effect of the set back, it would not, in itself, overcome the effect of the break in the building line on the street scene.
  17. I acknowledge that the positioning of the proposal further back within the site would enable parking to be accommodated on the sloping gradient of the frontage, which would avoid the negative impact of a level parking deck, as some other properties in the vicinity have. In addition, this arrangement plus any additional planting would help soften the effect of the adjacent parking decks on the appeal site. However, these matters do not outweigh the harm to the street scene as a result of the siting of the proposal.
  18. The appellant suggests that setting the building back within the site in this manner would open the site up and ameliorate its cramped appearance, providing more space between the appeal site and its neighbours. However, I consider that the close positioning of the existing buildings, one to another, is a distinctive characteristic of the locality. This proposal would fail to replicate this. I acknowledge that setting the building back within the site would help to reduce the impact of the built form on the street but for the reasons previously expressed, it would be unacceptable.
  19. The proposal would provide adequate storage facilities for refuse and recycling bins, but the Council has raised concern regarding the cluttered appearance of the frontage on collection days. It is suggested that this is indicative of an overdevelopment of the site. Whilst I acknowledge that there would be six bins on the frontage and that this may result in a cluttered appearance, it would be for a limited period of time. In addition, this is a common situation in urban areas before and after collection and forms part of the temporary appearance of areas on such days. Bearing this in mind, and notwithstanding the fact that more bins would be on the frontage than surrounding properties, I consider that this would be acceptable.
  20. The Council is also concerned that reliance on a stepped access to the basement flat is again symptomatic of an overdevelopment of the site. However, external access to the rear of the site, due to the change in ground levels, could only reasonably be provided by means of steps and this in itself does not indicate an overdevelopment of the site.
  21. In addition, the proposal would result in the loss of part of the rear garden of the appeal site and its replacement with some hardsurface at the front plus the building. Whilst this would result in over 50% of the site being built on, due to the larger size of this garden, relative to others in the locality and the substantial extensions that many other properties have, the loss of this part of

the garden would not cause material harm to the character and appearance of the area.

22. Notwithstanding this, the significant detrimental effect on the character and appearance of the area and the street scene which I have identified, conflict with the relevant parts of CS Policy CS 13, and saved LP Policies SDP 1, SDP 7 and SDP 9 and the advice set out in RDG Section 3. These, together, promote high standards of design that integrates with its surroundings.

#### *Living Conditions*

23. The proposed stepped access to the lower ground floor unit could be designed to accommodate people with mobility impairment and this could be enforced through the Building Control regime. In addition, secondary access would be available via the track that provides access to the rear of the appeal site. I acknowledge that this is unsurfaced and that it would not provide a level access with the same convenience as the main access, but prospective occupiers would have the choice as to whether this arrangement suited their needs. I have noted that the side windows of 3 and 5 Caxton Avenue and the rear windows of other properties backing onto the track provide some surveillance and would help to promote a feeling of safety for the prospective user. In addition, I noted, that due to the gradient of the land, other properties within the locality have steps, generally running down the side of the building, which provide access to the rear garden. For these reasons, I consider this to be acceptable and the proposal would accord with the relevant parts of CS Policy CS 13, which amongst other things promotes development that is accessible to all users.

#### *Other Matters*

24. I have noted that this application was submitted to overcome the reasons for refusal on a similar previous application, but I am required to make a decision on the planning merits of the appeal proposal.
25. In addition, I have taken note of the appellant's concern with regard to the Council's behaviour in relation to its decision making. I have also noted the appellant's concern with regard to new reasons for refusal that were introduced in relation to the appeal scheme that did not relate to the previous application and that the reasons for refusal stated in the decision notice were generalised, vague and based on inaccurate assertions. These matters, raised by the appellant, are dealt with in full in the decision on the application for costs submitted by the appellant in relation to this case.
26. In terms of housing supply, the Council's supply of deliverable sites has reduced in recent years and is now falling short of its 5 year target. It confirms that there is some reliance on windfall sites to meet its targets. This is a factor in favour of the proposal, but new development is not to be at any cost; the Framework requires development that functions well, responds to local character and adds to the overall quality of the area. I do not find that the net addition of 2 units weighs heavily when seen against the harm that would be caused.
27. Whilst the appeal site includes the garden of the host dwelling, the proposal would replace the existing building and extend further into the garden. However, as part of the garden would accommodate additional units of accommodation, and in the absence of any Development Plan policies in this



regard, the land falls within the definition of garden land. Annex 2 of the Framework does not include residential gardens in the definition of previously developed land. Whilst such land is not a priority for development, the Framework does not preclude applications affecting garden land from being considered on their particular merit. I have considered the proposal in light of this.

28. I have had regard to the fact that this development would be an efficient use of land in an urban area with medium accessibility and close to local facilities. The appellant suggests that the proposal would lift the area and in as much as it would replace a building that is in disrepair, I agree. I also acknowledge the sustainability credentials of the proposal, and that the Council's in-house expert design advisory body supports the design. Whilst these matters would weigh in favour of the proposal, they do not outweigh the significant harm I have identified to the character and appearance of the locality. I have also considered the fall back position suggested by the appellant, but this does not lead me to a different conclusion on the main issue in relation to this case.

### **Conclusion**

29. I have found that the appearance of the refuse bins on collection days and the access arrangements to the apartment at lower ground floor level would be acceptable, but have found that the proposal would cause significant harm to the character and appearance of the locality as it would be out of character and represent an overdevelopment of the site, and for this reason the appeal fails.
30. In coming to these conclusions, I have had regard to the presumption in favour of sustainable development, which sits at the heart of the Framework, together with its objective to increase the supply of new housing. The Framework has now replaced Planning Policy Statement (PPS)1: *Delivering Sustainable Development* and PPS3: *Housing*, brought to my attention, together with the principles set out in Greg Clark's Ministerial Statement: *Planning for Growth*. I have taken full account of the likely economic, environmental and social benefits of the proposal. However, in any event, the proposal would need to comply with Paragraph 58 of the Framework, which promotes good design that integrates with its surroundings and this is the key consideration in this case.
31. For the reasons given above and having regard to all other matters raised, the appeal should be dismissed.

*R Barrett*

INSPECTOR



---

## Costs Decision

Site visit made on 21 March 2012

**by R M Barrett BSC(Hons) MSC Dip UD Dip Hist Cons MRTPI IHBC**

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

**Decision date: 23 July 2012**

---

### **Costs application in relation to APP/D1780/A/11/2166444 23 Caxton Avenue, Southampton, SO19 5LJ**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr George Hatchard for a full award of costs against Southampton City Council.
  - The appeal was made against the refusal of planning permission for two three-bed apartments and one two-bed apartment to replace a semi-demolished post war bungalow at 23 Caxton Avenue, Southampton. Two car parking spaces have been provided as well as bin and bike provision.
- 

### **Decision**

1. The application for an award of costs is allowed in the terms set out below.

### **Reasons**

2. Circular 03/2009 (The Circular) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The application is for a full award of costs on the basis that the Council acted unreasonably on a number of counts. I will address each in turn.
4. It is alleged that the Council delayed its pre-application advice and its final decision, taking thirteen weeks to determine an appeal that was a resubmission of a previous very similar proposal. In addition, the appellant alleges that the Council did not agree an extension of time to make its decision. However, these matters are unlikely to have influenced the need for an appeal, and as defined by Paragraph B8 of the Circular, the costs regime is restricted to consideration of whether or not an award of costs in respect of the appeal is justified.
5. It is further alleged, that the Council's Planning and Rights of Way Panel (PRWP) failed to follow procedures to minute its decision, having taken an alternative view to its officers, and that this influenced the need for the appeal. However, the Council confirm that a minute was taken and was approved at a future Council PRWP meeting, to which no objection was raised. I conclude, therefore, that the Council complied, in this respect, with its procedure as set out in Paragraph 12.3 of Southampton City Council: *Probity in Planning, The Role of*

*Councillors and Officers* Guidance Note (2004). I therefore conclude that the Council acted reasonably in this respect and that this matter did not influence the need for the appeal or constitute grounds for an award of costs.

6. The appellant suggests that the Council, in determining the appeal proposal (11/00336/FUL), referred to a number of additional concerns that were not cited in the refusal of a previous similar application (10/00254/FUL). It is alleged that the Council, therefore, failed to determine like cases in a like manner, where there has been no change in circumstances. This is included in Paragraph B29 of the Circular as circumstances that may lead to an award of costs against a planning authority.
7. The Council refused the previous application on the basis of the effect on the living conditions of the occupiers of 21 Caxton Avenue (1), the living conditions of future occupiers with regard to private amenity space for the three bedroom units (2), inadequate parking (3) cycle and refuse storage (4) and its effect on the character and appearance of Caxton Avenue with regard to overdevelopment of the site and its excessive site coverage (5).
8. The appeal proposal put forward a revised scheme to overcome reasons 1 and 4. At pre-application stage it was agreed, between the parties, that reasons 2 and 3 were not relevant and should not have been cited. The appeal proposal was refused for one overarching reason, based on the proposal's effect on the character and appearance of Caxton Avenue. The Council's concern was that this proposal would be an overdevelopment of the appeal site, which would be out of keeping in the area. However, different aspects of the proposal, namely its height (1a), the use of garden land (2a), the presence of bins on the frontage on collection day (3a), and a stepped access to the basement unit (4a), were cited. None of these aspects of the proposal were cited in the previous refusal (5). On this basis there has been some inconsistency in the Council's decision making.
9. However, reason for refusal (5) on the previous application (10/00254/FUL) generally accords with the thrust of the reason for refusal on the appeal application (11/00336/FUL). Therefore, this matter has not influenced the need for the appeal in the first place and, for this reason, I conclude that the appellant did not incur unnecessary expense as a result.
10. Moreover, it is alleged that the Council refused the appeal proposal for spurious reasons, which were based on generalised or inaccurate assertions. As set out in Paragraph B16 of the Circular, reasons for refusal should be complete, precise, specific and relevant to the application. In making this decision, the Council took a view contrary to its officer's recommendation. Paragraph B20 of the Circular states that council's are not bound to accept the recommendations of their officers but will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support their decision in all respects.
11. The Council states concern regarding the height of the building (1a). In this respect the reason for refusal is complete, precise, specific and relevant. The Council's concern is that the building would be higher than its neighbours and due to this it would be out of keeping with the character and appearance of the area. This is a legitimate planning concern and was substantiated. Paragraph

B18 of the Circular states that where the outcome of an appeal turns on matters of judgment regarding the assessment of character and appearance, as long as realistic and specific evidence is provided, costs are unlikely to be awarded. In this respect, I conclude that the Council did not act unreasonably.

12. The Council states that the presence of bins on the frontage on collection days would be an indication of an overdevelopment of the appeal site and would be out of keeping with the area (2a). It states that this would be contrary to Part 9 of the Residential Design Guide (2006) (RDG) but does not substantiate this. I note that the Council agrees in its statement that adequate storage facilities for refuse and recycling are provided in accordance with the RDG. Therefore, I conclude that this limb of the reason for refusal is spurious and not based on objective analysis. In this respect, the Council has acted unreasonably and the appellant incurred unnecessary expense in disputing this matter at appeal.
13. In the final limbs of the reason for refusal, the Council states concern regarding the use of garden land where the priority for development is previously developed land (3a) and the stepped access to the basement flat (4a). The way in which these concerns are expressed within the reason for refusal is not complete, precise, specific and relevant to the application. In respect of limb (3a), in its statement, the Council explains that its concern relates primarily to the set back of the building within the site and its site coverage, both of which are legitimate planning concerns. In respect of limb (4a), it is the effect on the living conditions of future occupiers of the basement unit that is the main concern for the Council, in addition to their visual impact. However, in failing to properly articulate these concerns, in its reason for refusal, the Council acted unreasonably. The appellant incurred unnecessary and wasted expense in trying to predict these concerns in its grounds of appeal and statement.
14. The appellant also alleges that the Council raised additional reasons for refusal in its evidence at appeal. The Council did raise a number of additional matters in its statement that were not mentioned in its reasons for refusal, in addition to the effect on the living conditions of future occupiers of the basement unit, which is dealt with above. The additional matters raised include the proposal's two storey appearance, as viewed from Caxton Avenue, the design of the gable ends, the eaves height, the pitch of the roof, the siting of the proposal, its rear projection and its site coverage. However, these matters all relate to the Council's overall concern regarding the effect of the proposal on the character and appearance of the locality. No new policies were introduced. In this respect, I conclude that the Council did not act unreasonably.
15. Finally, it is alleged that the Council attached weight to the extent of public opposition for the appeal proposal. The appellant further alleges that this was not based on sound planning concerns, and draws my attention to the officer's report, which concludes that these local concerns do not constitute valid reasons for refusing the application. However, Councillors took a different view in respect of the presence of bins on the frontage on collection day.
16. Paragraph B21 of the Circular sets out that for any local opposition to a proposal to carry significant weight, it should be founded on valid planning reasons, which are supported by substantial evidence. Consequently, planning authorities should make their own objective appraisal to ensure that the planning reasons are valid. I am not persuaded that the advice in Paragraph

B21 of the Circular has been followed in this respect. This constitutes unreasonable behaviour and the appellant has incurred unnecessary expense in disputing this matter (2a) at appeal.

17.I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has been demonstrated and that a partial award of costs is justified.

**Costs Order**

18.In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Southampton City Council shall pay to Mr George Hatchard, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in disputing the Council's reason for refusal relating to limb 2a, 3a and 4a as set out above.

19.The applicant is now invited to submit to Southampton City Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

*R.M Barrett*

INSPECTOR

