



# Appeal Decisions

Inquiry held on 4 September 2007

Site visit made on 4 September 2007

by **Katie Peerless Dip Arch RIBA**

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

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Decision date:  
12<sup>th</sup> September 2007

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## Appeal A: APP/D1780/C/07/2034863

### 5 Crofton Close, Southampton, Hants SO17 1XB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Kultar Singh Roath against an enforcement notice issued by Southampton City Council.
- The Council's reference is 07/00008/ENF.
- The notice was issued on 18 December 2006.
- The breach of planning control as alleged in the notice is that condition 16 of planning permission ref: 612/900255/W, granted on 29 August 1990, which states that *'The garages and parking spaces shown on the approved plans shall be used only for parking and for no other purpose by residents of the dwellings which form part of the development hereby approved without the prior written consent of the local planning authority'* has not been complied with because the garage doors of the property have been removed and replaced with windows and brickwork, thus converting the garage to living accommodation, forming an integral part of the dwellinghouse.
- The requirements of the notice are: (i) Cease the use of the garage as living accommodation; (ii) Remove the windows and associated brickwork; (iii) Re-instate the garage doors and (iv) Remove all building materials and rubble resulting from the above work from the site.
- The period for compliance with the requirements is fifty six days.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: The appeal is dismissed and the enforcement notice upheld with corrections.**

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## Appeal B: APP/D1780/A/06/2032456

### 5 Crofton Close, Southampton, Hants SO17 1XB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Kultar Singh Roath against the decision of Southampton Council.
- The application Ref 06/01301/VC/612, dated 29 August 2006, was refused by notice dated 10 October 2006.
- The application sought planning permission for change of use of Oakmount House to 4 no. flats with the erection of a conservatory and redevelopment of remaining site by the erection of 33 no. houses with associated car parking, structured landscaping and open space at Oakmount School Site, Brookvale Road, Highfield without complying with a condition attached to planning permission Ref: 900255/612/W, dated 29 August 1990.
- The condition in dispute is No 16 which states that: *'The garages and parking spaces, shown on the approved plans, shall be used only for parking and for no other purpose by residents of the dwellings, which form part of the development hereby approved, without the prior written consent of the local planning authority'*.
- The reason given for the condition is: *To ensure adequate on-site parking provision for the approved dwelling units remains available for that purpose and to prevent parking on the adjoining highway.*

**Summary of Decision: The appeal is dismissed.**

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### **Procedural matter**

1. Although the enforcement notice refers to planning permission 612/900255/W, the permission itself has reference 900255/612/W. However, I consider that no party was disadvantaged by this typographical discrepancy.

### **Main issues**

2. The main issues in these cases are the effect of the development on:
  - (i) the character and appearance of the surrounding area and
  - (ii) the living conditions of occupiers of neighbouring properties

### **Planning Policy**

3. Policy SDP1 of the City of Southampton Local Plan Review March 2006 aims, amongst other things, to protect the quality of the built and natural environment of the City. Policy SDP3 seeks to ensure that travel generated by development can be accommodated without causing any material impact on the safety, efficiency and environment of the transport network. Policy SDP5 sets maximum car parking standards.

### **Reasons**

4. 5 Crofton Close was built in the 1990's as a five bedroom house on an estate of similar properties of varying sizes. It had a double integral garage that has now been converted to a bedroom and has had a substantial conservatory added at the rear, apparently after the property was first built. The property is presently let to students at Southampton University and, at the time of the site visit, the original dining room was also being used as a bedroom, raising the number to seven in all. The house has space for two cars to be parked on an area of hardstanding in front of the converted garage.
5. The estate is served by a single road that splits into two branches, both ending in cul-de-sacs. The properties are laid out in an informal style and private driveways leading from Crofton Close give shared access to the houses. The drive that serves No. 5 also serves three other properties and culminates in a turning head in front of a gated access into a landscaped buffer zone. The estate roads have pavements only to the areas that have been adopted by the Council and beyond the point where the road divides into two arms there are grassed verges. The geometry of the roads, including their 5m width, means that there are few places where vehicles could park without obstructing entrances or other road users. If such obstruction is to be avoided, any cars parked in Crofton Close have to be on the section of road where there is a pavement, and then with two wheels on it.

### ***Character and appearance***

6. The estate contains detached houses built at a low density amongst landscaped areas that retain mature trees and shrubs. The estate was built in accordance with a set of planning constraints that has now changed. In particular, maximum car parking standards now apply to new development. The overall design aimed to maintain the open and landscaped setting of the former school grounds that comprised the site and to keep parked cars screened from public viewpoints, where possible, so that they would not dominate the street scene. The estate roads were consequently constructed to a standard that discourages on-street parking and the houses were provided with garages and forecourt parking to comply with the minimum standards that applied at the time.

7. The Council considers that the open and verdant character of Crofton Close, and the low levels of on-street parking that contribute to this, are important features of the estate and I concur with this assessment. Consequently, I consider that it is essential that any development should not increase the likelihood of on-street parking, and the subsequent erosion of the overall character of the area.
8. The conversion of the garage has resulted in the house having additional living space which, whether it is used as a student bedroom as at present, or as accommodation for the appellant's elderly mother, as proposed, increases the occupancy potential of the dwelling. The site is in an area where accessibility to public transport is limited and there are now only two off-street parking spaces associated with the property. I consider that this will be insufficient provision for the number of cars likely to be associated with a house of this size. Local residents have submitted photographs of four cars parked outside No.5, with two of them being in the shared access drive and turning head. There was a car parked in this position at the time of the site visit and there was no dispute that this belonged to one of the occupants of No.5.
9. Consequently, I consider that it has been demonstrated that the conversion of the double garage has increased pressure for on-street parking, which is, as noted above, detrimental to the character and appearance of the area, contrary to Local Plan policy SDP1.

#### ***Residential amenity***

10. An increase in off-site parking is also, in my view, likely to result in a deterioration of the quality of residential amenity enjoyed by the other occupants of the estate. It would inconvenience residents and create potential obstructions that could impede access by service and emergency vehicles.
11. The occupants of No.6 Crofton Close have also objected to the increase in noise and disturbance that they submit has occurred since the garage was converted. I note that part of the living accommodation in No.5 is now closer to No.6 than previously, but the houses are still detached from each other and the proximity of what are, at present, the habitable rooms in the two properties is not unusual. It seems that it is the manner in which the house is occupied, and the behaviour and habits of the particular tenants, that have resulted in the complaints. This is not a matter that can properly be addressed by these appeals and there are other avenues open to the neighbours if they consider they are being adversely affected by un-neighbourly conduct.

#### **Other matters**

##### ***Precedent***

12. Whilst planning applications are normally and rightly determined on their own merits, these appeals seek a relaxation of a condition that applies to all the other houses on the estate that have integral garages. Whilst the grant of planning permission for the conversion of the garages in one property might seem insignificant, I consider that it would, nonetheless, make it difficult for the local planning authority to resist future pressure from other occupants to carry out the same development. The cumulative effect would be a demand for increased parking provision associated with the intensified residential use created by the removal of the garages and this would occur whether or not the garages are currently used for storage rather than car parking, as claimed by the appellant.

### ***Revised parking standards***

13. I have noted the appellant's argument that current Local Plan policy only requires two car parking spaces for a house of this size. However, as previously noted, when the development was permitted the relevant standards were different and the estate roads were consequently not designed to accommodate on-street parking. This is reinforced by the fact that a condition to ensure that on-street parking would not be increased through the loss of the garages was imposed on the original planning permission. In my opinion, it would be inappropriate to change one aspect of the original scheme, that is the number of parking spaces allocated to each house, without considering the impact on the overall design philosophy.

### ***Personal circumstances***

14. No.5 Crofton Close is already a substantial property, even before the garage conversion, and has the potential to be occupied by a significant number of people. One existing ground floor room is already used as a bedroom and I am not persuaded that a compelling case has been put forward to justify the further increase in living space. I do not, however, doubt the sincerity of the desire of the appellant's extended family to eventually occupy No. 5 and to provide a suitable environment to care for their recently widowed and disabled mother. I also note the offer to limit the number of cars associated with the property to two. It might, as well, prove more acceptable for the neighbours if the house was to be a family home and not occupied by a number of students. I also note that there are examples of five bedroom houses in Crofton Close that only have three parking spaces.
15. Nevertheless, it would be difficult, once the conversion was accepted, to limit the future use of the property and to impose particular restrictions on the occupancy. At the Inquiry, both the Council and the appellant resisted the possibility of the imposition of a personal permission related to the appellant's mother and Circular 11/95 advises that such conditions should only be imposed in exceptional circumstances. Whilst I have great sympathy for the family's desire to make No.5 their home, the implications of the existing alterations are such that their personal circumstances do not, in my opinion, outweigh the harm to the surrounding residential environment that would result, and would be likely to be caused, if planning permission for this development were to be granted.

### ***Current occupancy***

16. Local residents are concerned over the use of the property as student accommodation, with some considering that it falls outside the permitted C3 use class. However, this is not a matter for this Inquiry and the Council has previously accepted that there would, at present, appear to be no restriction on up to seven students sharing the house on a joint tenancy basis, provided the garage area was not used as living accommodation.

### ***Conclusions***

17. For the reasons given above and having regard to all other matters raised, I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

## **Formal Decision**

### **Appeal A: APP/D1780/C/07/2034863**

18. I direct that the enforcement notice be corrected by the deletion of '612/900255/W' and the insertion of '900255/612/W' in the allegations. Subject to this correction, I dismiss the appeal, uphold the enforcement notice, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

### **Appeal B: APP/D1780/A/06/2032456**

19. I dismiss the appeal.

*Katie Peerless*

**Inspector**

## APPEARANCES

### FOR THE APPELLANT:

Mr Harpal Roop Singh                      Brother of appellant c/o 14 Westwood Road,  
Southampton SO17 1DN

### FOR THE LOCAL PLANNING AUTHORITY:

Mrs Amy Kelly                              Of Counsel, instructed by Mark Heath, Solicitor  
for Southampton City Council

                    She called  
                    Mr Richard Plume BA                      Major Projects Co-ordinator, Planning and  
                    DipTP    Sustainability Division, Southampton City Council

### INTERESTED PERSONS:

Mr J Gillan                                      Chair, Highfield Residents' Association  
4, Woodstock Drive, Highfield, SO17 1WY

Mrs S Hartley                                   6, Crofton Close, Highfield SO17 1XB

Mr P Hartley                                   6, Crofton Close, Highfield SO17 1XB

Mr P Johnson                                   Oakbank Management Ltd.  
31, Crofton Close, Highfield SO17 1XB

Mr L Taylor                                   26, Crofton Close, Highfield SO17 1XB

Mr G Linecar                                   Oakmount Triangle Residents' Association  
3, Highfield Road Southampton SO17 1NX

Cllr Jill Baston                                Ward Councillor  
27 Highfield Crescent Portswood, Southampton  
SO17 1SG

Cllr A Vinson                                  Ward Councillor  
14, Grosvenor Road, Portswood, Southampton  
SO17 1RT

## DOCUMENTS

- 1 Notification letters and circulation list
- 2 Representations from interested parties
- 3 Mr Singh's statement
- 4 Notes of Mrs Kelly's opening statement
- 5 Notes of Mr Gillan's statement
- 6 Notes of Mr Hartley's statement
- 7 Notes of Mr Linecar's statement
- 8 Notes of Mr Taylor's statement
- 9 Notes of Mrs Hartley's statement
- 10 Notes of Mr Johnson's statement

## PHOTOGRAPHS

- 1 Bundle of photographs submitted by Mr Hartley