

Planning, Transport & Sustainability Division
Planning and Rights of Way Panel 25th March 2014
Planning Application Report of the Planning and Development Manager

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| Application address: John Martin Mews 58 West End Road | | | |
| Proposed development: Amendments to previous planning permission 11/01987/FUL for conversion, extensions and new buildings to provide 10 dwellings (the changes relate to car parking arrangements, landscaping, layout and cycle and refuse storage) | | | |
| Application number | 14/00067/MMA | Application type | MMA |
| Case officer | Stuart Brooks | Public speaking time | 15 minutes |
| Last date for determination: | 16.04.2014 | Ward | Harefield |
| Reason for Panel Referral: | Major planning application subject to objection | Ward Councillors | Cllr Daniel Fitzhenry Cllr Edward Daunt Cllr Royston Smith |

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| Applicant: D and K Contracting Ltd | Agent: Tony Oldfield Architects |
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| Recommendation Summary | Delegate to Planning and Development Manager to grant planning permission subject to criteria listed in report |
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| Community Infrastructure Levy Liable | No |
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Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. The proposed amendments are considered to aid the management of the site for affordable housing, whilst ensuring that the outlook, light and privacy of the neighbouring occupiers is safeguarded. The proposed changes are considered to be minor in nature to the overall scale of the development and, therefore, can be treated as a minor material amendment to permission 11/01987/FUL. Other material considerations have been considered including and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted.

Policies - SDP1, SDP4, SDP5, SDP6, SDP7, SDP9, SDP10, H2, H7, of the City of Southampton Local Plan Review (March 2006) and CS4, CS5, CS13, CS15, CS16, CS19 and CS20, CS25 of the Local Development Framework Core Strategy Development Plan Document (January 2010).

| Appendix attached | | | |
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| 1 | Development Plan Policies | 2 | Planning history |
| 3 | 11/01987/FUL - Decision notice and landscaping plan | 4 | Typical specification of Cypress Goldcrest Tree |

Recommendation in Full

Conditionally approve

1. Delegate to the Planning and Development Manager to grant planning permission subject to the completion of a deed of variation to link the S.106 Legal Agreement under permission 11/01987/FUL to secure:

i. Financial contributions towards site specific highway improvements in the vicinity of the site in accordance with polices CS18, CS19 & CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (January 2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended);

ii. A financial contribution towards strategic transport improvements in the wider area in accordance with policies CS18 & CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (January 2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended);

iii. Financial contributions towards the relevant elements of public open space required by the development in line with polices CLT5, CLT6 of the City of Southampton Local Plan Review (March 2006), Policy CS25 of the adopted LDF Core Strategy (2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended) with regard to

- Amenity Open Space (“open space”);
- Play Space and;
- Playing Field.

iv. Provision of affordable housing in accordance with Policies CS15, CS16 & CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (January 2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended);

v. Submission of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer;

vi. A Site Waste Management Plan

In the event that the legal agreement is not completed by 2 months after the resolution the Planning and Development Manager be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.

2. That the Planning and Development Manager be given delegated powers to add, vary and /or delete relevant parts of the Section 106 agreement and/or conditions as necessary.

1.0 The site and its context

- 1.1 This application site is located 150m to the north of the nearby Bitterne District Centre within the Harefield ward on the eastern side of West End Road and bounded by Panwell Road to the east.
- 1.2 The site is has been recently been developed under permission 11/01987/FUL - see **Appendix 3**. The 10 dwellings are substantially complete and are to be managed by a Southampton City Council Registered Housing Provider as all the units are affordable housing units; the units consist of 2 x three bedroom bungalows, 7 x two bedroom flats and 1 x one bedroom flats. There are planning restrictions in place to ensure no access is created to the site from Panwell Road.

2.0 Proposal

- 2.1 Whilst the buildings are now substantially complete a small number of minor changes are being proposed to the approved scheme to improve the layout and living environment of their future tenants, and to aide future site management. This will require the variation of conditions and changes to works agreed under 4, 6, 13, 22 including:

Condition 4 (Cycle and Refuse storage)

- a. Re-siting a cycle and refuse store serving Bungalow 1 at the rear of the site and providing a new cycle store for Flat 6 in the centre of the site.

Condition 6 (No allocation of parking spaces)

- a. Formal allocation of three of the nine already approved parking spaces to be specifically for the use by the occupants of the shared ownership properties (the two bungalows at the rear of the site and unit 6 which is located centrally within the site).

Condition 13 (Landscaping plan)

- a. The creation of disabled persons wheelchair ramp to provide easier access for occupiers of 'Flat 1' to the secure and private courtyard amenity area which serves that unit and raising the level of the courtyard within that space.
- b. The removal of the rear facing ground floor door which provided direct access to private amenity space serving 'Flat 2'.
- c. Changes to the position of new tree planting within the site frontage following the removal of an 'existing' tree from the boundary between 60 West End Road. (A replacement tree has been agreed to be an evergreen 'Cypress Goldcrest' at a minimum of 2m high when planted).

Condition 22 (Boundary enclosures)

- a. The raising in height of a short section of the newly constructed brick boundary wall alongside 60 West End Road to compensate for the need to raise the levels of the surface treatment within the courtyard of Flat 1 to ensure it is the required minimum of 2m high above the patio level.

- 2.2 A deed of variation S106 agreement is required to link this application to the legal agreement under the original planning permission.

3.0 Relevant Planning Policy

- 3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (March 2006) and the City of Southampton Core Strategy (January 2010). The most relevant policies to these proposals are set out at **Appendix 1**.
- 3.2 The National Planning Policy Framework (NPPF) came into force on 27th March 2012 and replaces the previous set of national planning policy guidance notes and statements. The Council has reviewed the Core Strategy to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.
- 3.3 Saved policy SDP1 (Quality of development) of the Local Plan Review allows development, providing that it does not unacceptably affect the health, safety and amenity of the city and its citizens. Policy SDP7 (Context) and SDP9 (Scale, Massing, and Appearance) allows development which will not harm the character and appearance of the local area, and the building design in terms of scale and massing should be high quality which respects the surrounding area. Policy CS13 (Fundamentals of Design) assesses the development against the principles of good design.

4.0 Relevant Planning History

- 4.1 The recent planning history for the development of this site has been set out in **Appendix 2**. A previous 'non-material amendment' has already been agreed, including the removal of rear access steps to Flat 8, alterations to windows/doors of approved bungalows, replacement of front bollards with security gates and alterations to landscaping. The majority of the works under consideration in this current application would normally be dealt with under the 'non-material amendment' procedure. However, as the neighbour at 60 West End Road raised an objection under permission 11/01987/FUL to specific issues relating to the boundary wall and tree planting the Minor Material Amendment procedure has to be followed in this case.

5.0 Consultation Responses and Notification Representations

- 5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, placing a press advertisement (31.01.2014) and erecting a site notice (24.01.2014). At the time of writing the report **1** objection has been received from the immediate neighbour. The following is a summary of the points raised:

Comment

The mature evergreen trees which were to be retained as shown on the approved planting plan have all been removed from the common boundary with 60 West End Road, and should be replaced by mature evergreen trees at least 4m high.

Response

Only 1 tree has been removed (T2 Cypress) which should have been retained as per the approved planting plan (drawing ref no. 936/01 revision A). The developer has agreed to replace this tree with an evergreen Cypress Goldcrest with a minimum height of 2m. The Tree Officer has confirmed that the removed tree did

not hold significant amenity value. As such, given the difficult logistic and high cost implications, it would be unreasonable to expect the developer to plant a 4m tall tree as a replacement. The replacement tree species is known to be a fast growing tree, with a thick canopy which makes an excellent screen (see Appendix 4 for a typical planting specification from Royal Horticultural Society).

Comment

Loss of privacy - The 150mm raised front patio serving Flat 1 has effectively reduced the height of the common boundary wall between 60 West End Road. This will be contrary to condition 22 which requires the wall to be 2m high.

Response

The developer has confirmed that the height of the wall will be raised 3 brick courses which is greater than 150mm to ensure that it is a minimum height of 2m above the patio.

Consultation Responses

- 5.2 **SCC Highways** - No objection.
- 5.3 **SCC Housing** – No objection, the planning conditions and or obligations will be used to ensure that the affordable housing will remain at an affordable price for future eligible households, or for the subsidy to be recycled to alternative housing provision.
- 5.4 **SCC Tree and Landscaping Team** – No objection to the replacement of the removed tree with a 2m high evergreen tree. The tree which was removed did not hold significant amenity value. It is necessary to remove one of the proposed Lime trees to improve spacing between trees in the front grassed area. The remaining 4 trees will still provide a visually attractive landscaping to the front of the development.

6.0 Planning Consideration Key Issues

- 6.1 The key issues for consideration in the determination of this planning application are:
 - Principle of development
 - Living conditions of existing and future occupiers
 - Highway Safety

6.2 Principle of Development

There is no statutory definition of a 'minor material amendment', however, the Government states that it agrees with the following definition set out in its guidance document - "*A minor material amendment is one whose scale and nature results in a development which is not substantially different from the one which has been approved.*" (Greater flexibility for planning permissions, CLG October 2010). The matter of whether the changes constitute a minor material amendment is further considered below in relation to the other material considerations.

6.3 Living conditions of existing and future occupiers

- 6.3.1 The re-siting of the cycle/refuse store for Bungalow 1 ensures that the adjacent retained tree is protected by moving it away from under its canopy, and this will also improve the outlook for occupiers from the living room and dining room

windows. Although the store is sited closer to the common boundary of 60 West End Road, it will be sufficiently screened from the neighbour's garden by the existing brick wall. The introduction of the cycle store to Flat 6 will not adversely affect the amenity of adjoining occupiers.

- 6.3.2 The introduction of the disabled access ramp to the raised patio of Flat 1 will facilitate the provision of specialist and affordable housing for a disabled person, such as a family with a wheelchair bound child or parent. The brick wall along the common boundary adjacent to no. 60 will be raised 3 brick courses (approximately 20cm) to ensure the height of wall will be a minimum of 2m above the 150mm raised patio height and, therefore, minimise direct overlooking of the neighbour's property to safeguard their privacy.
- 6.3.3 The replacement Cypress Goldcrest tree with a minimum height of 2m, will be an effective and fast growing screen to the common boundary with at 60 West End Road. The Tree Officer has confirmed that the tree removed did not hold significant amenity value.
- 6.3.4 Flat 2 will no longer be able to directly access their private amenity space from the rear bedroom and, therefore, rely on the shared access adjacent to the flat. As the flat is a 2 bedroom unit there is no policy requirement to have direct access to its private amenity space unlike a 3 bedroom family unit. Although this is not encouraged as good design for ground floor units, apart from being a minor inconvenience this does not jeopardise the living conditions of the residents, given the availability of the shared courtyard route which is convenient and safe.

6.4 Highway Safety

- 6.4.1 The Highway Officer has raised no objection to the relief of condition 6 for the allocation of no parking spaces, however, the maximum amount of allocated spaces allowed should be restricted to 3 spaces as proposed with the inclusion of the disabled space. Therefore, it is considered that highway safety will not be adversely affected.

7.0 Summary

- 7.1 In summary, the changes proposed are considered to aid the management of the site for affordable housing, whilst ensuring that the outlook, light and privacy of the neighbouring occupiers is safeguarded. The proposed changes are considered to be minor in nature to the overall scale of the development and, therefore, can be treated as a minor material development.

8.0 Conclusion

- 8.1 In conclusion, the proposed application is considered to have an acceptable impact and, therefore, is recommended for approval.

Local Government (Access to Information) Act 1985
Documents used in the preparation of this report Background Papers

1 (a), (b), (c), (d), 2 (b), (d) 6 (c), 7 (a), 9 (a) and (b)

SB for 25/03/14 PROW Panel

PLANNING CONDITIONS

01. APPROVAL CONDITION - Full Permission Timing Condition - Physical works

The development works hereby permitted shall begin not later than three years from the date on which this planning permission was granted.

Reason:

To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

02. Approval Condition - Energy minimisation (Performance Condition)

The proposed development shall be built in accordance with the provisions of the energy strategy dated August 2011 which details the methods to be used to achieve Code for Sustainable Homes Level 3 and a reduction in 20% Co2 emissions over the building regulations measures. Measures include the installation of water butts to down pipes and solar photovoltaics to roofs as shown on drawing P04 rev C submitted under permission 11/01987/FUL.

REASON:

To ensure the development minimises its overall demand for resources and to demonstrate compliance with policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010).

**03. APPROVAL CONDITION - Residential - Permitted Development Restriction
[Performance Condition]**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), or any Order amending, revoking or re-enacting that Order, no building or structures within Schedule 2, Part 1, Classes as listed below shall be erected or carried out to any dwelling house (bungalow) hereby permitted without the prior written consent of the Local Planning Authority:

Class A (enlargement of a dwelling house), including a garage or extensions,

Class B (roof alteration),

Class C (other alteration to the roof),

Class D (porch),

Class E (curtilage structures), including a garage, shed, greenhouse, etc.,

Reason:

In order that the Local Planning Authority may exercise further control in this locality given the small private garden and amenity areas provided as part of this development in the interests of the comprehensive development and visual amenities of the area.

04. APPROVAL CONDITION - Set allocation of parking spaces [Performance Condition]

The car parking spaces hereby approved are to be available for the shared use of all occupants of the dwelling units hereby approved with exception to the 3 spaces and the disabled parking space as shown on approved plan BR020 Rev F received by the Local Planning Authority on 28th February 2014, and at no time shall they be allocated for use by individual units.

Reason:

To avoid congestion on the adjoining highway which might otherwise occur because the parking provision on site has been reduced to reflect the lower demand where car parking is provided for communal use.

05. APPROVAL CONDITION - Amenity Space Access [Pre-Occupation Condition]

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.

REASON:

To ensure the provision of adequate amenity space in association with the approved flats.

06. APPROVAL CONDITION- Unsuspected Contamination [Performance Condition]

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.

Any changes to the agreed remediation actions will require the express written consent of the Local Planning Authority.

Reason:

To ensure any land contamination not previously identified is assessed and remediated so as not to present any significant risks to human health or, the wider environment.

07. APPROVAL CONDITION - Use of uncontaminated soils and fill [Pre-Commencement Condition]

Clean, uncontaminated soil, subsoil, rock, aggregate, brick rubble, crushed concrete and ceramic shall only be permitted 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.

Reason:

To ensure imported materials are suitable and do not introduce any land contamination risks onto the development.

08. APPROVAL CONDITION - Wheel Cleaning Facilities [Pre-Use Condition]

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.

Reason:

In the interests of highway safety.

09. APPROVAL CONDITION - Hours of work for Demolition / Clearance / Construction [Performance Condition]

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 (8.00am to 6.00pm)

Saturdays 09:00 hours to 13:00 hours (9.00am to 1.00pm)

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.

Reason:

To protect the amenities of the occupiers of existing nearby residential properties.

10. APPROVAL CONDITION - Bonfires [Performance Condition]

No bonfires are to be allowed on site during the period of demolition, clearance and construction.

Reason:

To protect the amenities of the occupiers of existing nearby properties.

11. APPROVAL CONDITION - Landscaping plan [Pre-occupation Condition]

The development shall be carried out in accordance with approved landscape planting plan drawing no: 936/01 revision G received by the Local Planning Authority on 7th March 2014.

The works include the replacement of tree T9 with a Pinus Himalayan Pine, the replacement of T12 Sweet Chestnut (the removed tall stump) with an Ostrya Tree, and the replacement of T2 with a Cypress Goldcrest Tree with a minimum height of 2m.

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 by the Developer 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 Developer shall be responsible for any replacements for a period of 5 years from the date of planting.

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.

Reason:

To improve the appearance of the site and enhance the character of the development in the interests of visual amenity, to ensure that the development makes a positive contribution to the local environment and, in accordance with the duty required of the Local Planning Authority by Section 197 of the Town and Country Planning Act 1990

12. APPROVAL CONDITION - Approved Plans

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority.

Reason:

For the avoidance of doubt and in the interests of proper planning.

13. APPROVAL CONDITION - Stopping up existing access [Pre-Commencement Condition]

Any redundant access to the site shall be stopped up and abandoned and the footway, and verge crossings and kerbs shall be reinstated before the development is brought into use.

Reason:

To provide safe access to the development and to prevent congestion on the highway.

14. APPROVAL CONDITION - Parking [Pre-Occupation Condition]

The development to which this consent relates shall not be occupied in full or in part until space has been laid out within the site for 9 vehicles to be parked and for vehicles to turn so that they can enter and leave in a forward gear.

Reason:

To prevent obstruction to traffic in neighbouring roads and in the interests of highway safety.

15. APPROVAL CONDITION - Delivery times [Pre-Occupation Condition]

No deliveries (including construction materials) shall be taken in or dispatched from the premises outside the following times 7.30am -9.30am and 4pm - 6pm.

Reason:

To avoid traffic congestion.

16. APPROVAL CONDITION - Archaeological work programme [Performance Condition]

The developer will secure the completion of a programme of archaeological building recording and assessment work in accordance with a written scheme of investigation submitted in the letter received by the Local planning Authority on 2nd January 2013 under application 13/00023/DIS.

Reason:

To ensure that the archaeological building recording is completed.

17. APPROVAL CONDITION - Surface / foul water drainage [Pre-commencement Condition]

No building shall be occupied unless and until all drainage works have been carried out in accordance with the scheme for the disposal of foul water and surface water drainage agreed with Southern Water in the letter dated 5th March 2013 submitted under application 13/00023/DIS and maintained for use for the life of the development.

Reason:

To ensure satisfactory drainage provision for the area.

18. APPROVAL CONDITION - Boundary enclosures [Pre-commencement Condition]

Prior to the occupation of any of the units provided under this permission the following means of enclosure shall be constructed:-

- (i) a continuous 2 metre high brick wall shall be built along the common northern boundary of the site with 60 West End Road, including a minimum height of 2m above the adjacent front patio area serving Flat 1;
- (ii) a continuous 1.8 metre high close-boarded timber fence shall be constructed along the eastern site boundary with Panwell Road;
- (iii) the site boundary treatment of the site's western and southern boundaries and all means of enclosure to be formed within the site in accordance with plan no. BR020 Rev F.

All means of enclosure shall thereafter be retained and maintained in good repair, particularly that to Panwell Road.

Reason:

In the interests of the visual amenities of the area and to protect the amenities and privacy of the occupiers of adjoining property and to ensure no through access is created to Panwell Road.

19. Approval Condition - Tree works (Performance Condition)

The development hereby approved must be carried out in accordance with the approved tree protection plan ref: dfc/0220 and arboricultural Impact Study and method statement dated 02.09.2011 submitted under permission 11/01987/FUL.

Reason

To ensure the adequate protection of trees on site.

20. APPROVAL CONDITION - No access from Panwell Road - Performance Condition

No access (vehicular or pedestrian) shall be created along the rear boundary of the site onto Panwell Road.

REASON

In the interests of highway safety, the character of the area and the amenities of residents living in Panwell Road.

14/00067/MMA

