

Southampton City Planning & Sustainability
 Planning and Rights of Way Panel meeting 31st August 2010
 Planning Application Report of the Planning and Development Manager

Application address:
 36 Dell Road, Bitterne, Southampton

Proposed development:
 Erection of a 3-storey building comprising of 1x3-bed and 4x1-bed flats with associated parking and cycle/refuse storage. Outline application seeking consideration of access, appearance, layout and scale (details of landscaping to be reserved)

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| Application number | 10/00454/OUT | Application type | Q13 - Minor Dwellings |
| Case officer | Jenna Turner | Public speaking time | 5 minutes |

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| Applicant: Mr E Sumra | Agent: Mr John S Warwick |
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| Recommendation Summary | Conditionally Approve |
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Reason for Granting Permission

Reason for Granting Outline Planning Permission

The development is acceptable taking into account the policies and proposals of the Development Plan and other guidance as set on the attached sheet. Other material considerations do not have sufficient weight to justify a refusal of the application. The proposed dwellings would be in keeping with the surrounding area and would not have a harmful impact on residential amenity as set out in the report to the Planning and Rights of Way Panel on the 31.08.10. The proposal has addressed the previous reasons for refusal including the reasons for the dismissal of the previous planning appeal. Where appropriate planning conditions have been imposed to mitigate any harm identified. In accordance with Section 38 (6) of the Planning & Compulsory Purchase Act 2004, Outline Planning Permission should therefore be granted having account of the following planning policies:

“Saved” Policies – SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, SDP11, SDP12, SDP13, H1, H2, and H7 of the City of Southampton Local Plan Review - Adopted March 2006 as supported by the adopted LDF Core Strategy (2010) policies CS4, CS5, CS13, CS16, CS19, and CS20 and the Council’s current adopted Supplementary Planning Guidance. National Planning Guidance contained within PPS1 (Delivering Sustainable Development), PPS3 (Housing 2010) and PPG13 (Transport) are also relevant to the determination of this planning application.

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| Appendix attached | | | |
| 1 | Planning History and Appeal Decision | 2 | Development Plan Policies |
| 3 | Structural Engineers Comments | | |

Recommendation in Full

That the application be approved subject to the suggested planning conditions

1.0 Background

1.1 This application has been referred to panel at the request of the local ward councillors. This application seeks to address the previous reasons for refusal attached to planning application 07/01770/OUT.

2.0 The site and its context

2.1 The application site is a vacant piece of land which previously contained a detached two-storey dwelling house although this building has been demolished some time ago due to its poor structural condition. The site slopes steeply down from the rear boundary towards the road with an 11 metre difference between the levels at the front and rear of the site.

2.2 The surrounding area is predominantly residential in character. Although the properties are fairly mixed in design they are typically of a domestic scale; either one or two storeys in height. The street scene is suburban in character, with development interspersed with mature trees and vegetation. The road slopes steeply upwards to the south towards the junction with Midanbury Lane.

3.0 Proposal

3.1 The application seeks outline planning permission for a single block of five flats. All matters are to be considered with the exception of landscaping which is reserved for consideration at a later stage.

3.2 The application is a resubmission of an earlier refused scheme (LPA reference 07/01770/OUT) which was dismissed at appeal and seeks to address the previous reasons for refusal. A copy of the reasons for refusal and the appeal decision are included at **Appendix 1**.

3.3 When viewed from Dell Road the proposed building would have a two-storey scale with accommodation within the roof space served by dormer windows. Due to the change in levels across the site the building would have a single-storey scale at the rear also with rooms in the roof served by dormer windows. The overall design is traditional in appearance with a pitched roof, chimney stack and projecting bay windows to the front elevation.

3.4 Amenity space would be provided to the rear of the site in a series of terraces. Two car parking spaces would be provided to the front of the property together with a purpose built refuse store.

3.5 The differences between the current application and the approved scheme can be summarised as follows:

- The number of flats have been reduced from 6 to 5 and reduced the number of bedrooms from 12 to 7.
- The mix of accommodation has changed from a development of 2 bedroom flats to 1 x three bedroom flat and 4 x one bedroom flats
- The depth of the building into the site has been reduced by 5 metres
- The previous application proposed the excavation of the slope to create a level site with the land either side of the building supported by 8 metre and 6 metre retaining walls. The current proposal would use below ground piles as retaining structures and would create a series of terraces up the slope.

4. Relevant Planning Policy

4.1 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 2**.

4.2 The application site is not allocated in the current development plan. The Council’s usual requirements for achieving context-sensitive residential design as required by Core Strategy policy CS13 and policies SDP1, SDP7 and SDP9 of the Local Plan are applicable. Applications for new residential dwellings are expected to meet high sustainable construction standards in accordance with adopted Core Strategy Policy CS20 and Local Plan “saved” Policy SDP13.

4.3 On June 9th 2010 private residential gardens were excluded from the definition of Previously Developed Land (PDL) in the Government’s Planning Policy Statement on Housing (PPS3). Also, the requirement to achieve a minimum density of at least 30 dwellings per hectare was removed.

4.4 The revised PPS3 maintains that the priority for development should be PDL (Paragraph 36 refers).

4.5 The adopted Core Strategy (in Policy CS4 Housing Delivery) indicates that 16,300 additional homes will be provided over the plan period, with 5,750 homes to be provided on allocated and identified sites between April 2009 and March 2014. The figures demonstrate that the city has a housing supply from identified sites sufficient to meet requirements until and beyond 2018/19, without reliance on windfall sites. The change to the definition of PDL, and the Council’s current predicted supply, means that the principle of development will now be an issue for new windfall proposals for housing units to be built entirely on private residential gardens (often termed “garden grab”).

4.6 That said, the revised PPS3 maintains that the planning system should provide “*a flexible, responsive supply of land that is managed in a way that makes efficient and effective use of land, including re-use of previously-developed land, where appropriate*” (Paragraph 10 refers). The national annual target that “*at least 60 per cent of new housing should be provided on previously developed land*” remains, suggesting that residential development can still take place on other land subject to the local circumstances of each site involved.

4.7 It is the view of the Council’s Planning Policy Team that the recent changes to PPS3, along with the removal of the national indicative minimum density standards, are not intended to stop all development on private residential gardens. Instead it allows Councils greater powers to resist such development where there is a demonstrable harm *inter alia* to the character and appearance of an area. The judgement as to whether such proposals are acceptable will need to consider, amongst other factors:

- the loss of private residential garden land;
- the contribution the land currently makes to the character of the area;
- the impact on the defined character of the area; and,
- the contribution that the scheme makes to meeting housing need.

4.8 The revised PPS3 maintains that design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an

area and the way it functions, should not be accepted (Paragraph 13 refers).

5.0 Relevant Planning History

5.1 This is the fifth application for the redevelopment of this site. An earlier scheme for the construction of a pair of semi-detached houses was approved in 2006 although this planning permission has now lapsed. There have been two previous applications for developments of six flats on the site which were both refused, the most recent of which was also subject of an appeal which was dismissed. The details of the planning history of the site are included in **Appendix 1**. The principle reason for the appeal decision dismissal relates to the impact of retaining walls on the residential amenity of prospective occupiers, which has now been overcome.

6.0 Consultation Responses and Notification Representations

6.1 Following the receipt of the planning application a publicity exercise in line with department procedures was also undertaken which included notifying adjoining and nearby landowners, and erecting a site notice. At the time of writing **14** representations have been received from surrounding residents including from the local ward Councillors White, Baillie, and Williams. The following is a summary of the points raised:

6.2 The proposed flatted development is out of character with the family houses within Dell Road

Response

The issue of character was assessed by the Planning Inspector at the last appeal on this site and the proposed development was not considered to be harmful to the character of the area (paragraph 9 of the appeal decision in **Appendix 1** refers).

6.3 There is a need of family homes as opposed to flatted developments

Response

The development includes a 3 bedroom unit which has direct access to private amenity space. The development would therefore provide a family unit in accordance with policy CS16 of the Core Strategy.

6.4 The proposed ground works could cause land stability issues

Response

The application is accompanied by a Stability Report, Soils Analysis and details are provided of the method of construction. The Council's Structural Engineers have reviewed this information and are satisfied that the development can be constructed without resulting in land stability problems.

6.5 The construction process would have a harmful impact on highway safety and would create noise and disturbance to the residential neighbours

Response

Planning conditions are suggested to control the hours of construction and to secure a construction management plan.

6.6 An insufficient number of car parking spaces are proposed which would lead to parking on the highway which would have a harmful impact on highway safety

Response

The application site lies within an area of Low Accessibility for public transport, however, the number of car parking spaces proposed accords with the adopted maximum parking standards, a maximum total of 5 spaces could be provided. The application proposes the same number of car parking spaces as the refused scheme and the amount of development on the site has been reduced. Car parking was not previously included as a reason for refusal.

6.7 The proposal would set an unwelcome precedent for similar flatted developments within the area

Response

Each planning application is assessed on its own individual merits having regard to the specific site related considerations. As such, if planning permission was to be granted for the current proposal, it does not automatically follow that planning permission would be granted for flatted developments in the vicinity of the site.

6.8 The new building would have a harmful impact on the amenities of the neighbours in terms of light and outlook and overlooking.

Response

Having regard to the position of the building and the change in levels between the site and the neighbouring properties, it is considered that the proposed would not have a harmful impact on residential amenity.

6.9 The amenity space to serve the proposed flats would be poor and the ground floor flats would be dark

Response

The amenity space would be formed of a series of terraces and there would be no requirement for a substantial above ground retaining wall. As such the terraces would receive an acceptable level of daylight. The ground floor units are single aspect served by east facing windows which would be a ground floor level rather than below ground floor level. As such the quality of these units would be acceptable.

6.10 SCC Structural Engineers – No objection subject to the imposition of the suggested conditions (the Structural Engineer's full comments are provided at **Appendix 3**).

7.0 Planning Consideration Key Issues

7.1 The application needs to be assessed in terms of the following key issues and the planning history of the site:

- i. Principle of development;
- ii. Design;
- iii. Land stability;
- iv. Residential amenity;
- v. Residential Standards; and
- vi. Highways and parking.

7.2 Principle of Development

7.2.1 The building footprint of the proposed new building would encompass both previously developed and garden land. Garden land has been recently removed from the definition of previously developed land in the 9th July update to PPS3: Housing. PPS3 indicates that the priority for development is on previously developed land. Furthermore,

housing need within the city can be accommodated on identified sites without relying on windfall sites. The change to PPS3 needs to be balanced against other planning policy considerations which seek the efficient use of land to provide housing and whether the development on garden land would have a harmful impact on the character of the area. This is discussed in more detail in section 7.3 below.

7.2.2 In terms of the level and type of accommodation proposed, it is noted that Dell Road typically comprises single-family dwellings, however the introduction of a flatted development would contribute to the creation of a mixed and balanced community as required by PPS3: Housing. The proposal incorporates a 3 bedroom unit to replace the family home which was removed from the site approximately 4 years ago.

7.2.3 The application proposes a residential density of 80 dwellings per hectare which is in excess of the density suggested for areas of low accessibility for public transport by policy CS5 of the Core Strategy. Density alone is not a definitive test of the acceptability of a scheme and indeed policy CS5 suggests that the density should be assessed in terms other aspects of the scheme including character, open space and the need to make efficient use of the land.

7.3 Design

7.3.1 The design of the proposed building has a domestic appearance and incorporates traditional design features which would help it integrate into the street scene. As the properties within Dell Road are varied in character, the development would not appear incongruous within the street scene. Whilst 3 levels of accommodation would be provided, the building would have a 2-storey built form when viewed from Dell Road. It is noted that the previous appeal Inspector considered that the front elevation of the building would “sit comfortably in the streetscene”. Overall it is considered that the development would represent a visual improvement on the current condition of the site which has been derelict for a considerable period of time.

7.3.2 The development would retain approximately 300 sq.m of soft landscaping to the rear of the building and the building itself would occupy just over 20% of the total site area. This would ensure that the site would retain its spacious suburban character and that the development would not appear to be an over-intensive use of the site. As such, the level of development and the density proposed is considered to be acceptable.

7.4 Land Stability

7.4.1 In the dismissal of the planning appeal on this site, the planning inspector raised the following issues in relation to the engineering works:-

- That the application submission did not contain sufficient information to ensure that the works would not adversely affect the stability of the neighbouring properties;
- That the 6 metre and 8 metre high retaining wall would have a harmful impact on the amenities of prospective occupants of the development and;
- That the amenity space for the development would not be useable due to the topography of the site.

7.4.2 Where as the previous application sought to create a level building site with substantial land excavations, the current proposal works with the topography of the site. The development would be supported by below ground piles and the only above ground retaining wall would be a short section to the side of the building, adjacent to the garden access steps. The application is accompanied by a Stability Report, A Geotechnical Soils Report and plans which detail the construction method. This information has been independently reviewed by the Council’s Structural Engineers and they are satisfied that

the development would not undermine the stability of the site or the neighbouring properties. The Structural Engineers Comments are provided in **Appendix 3** to this report.

7.5 Residential Amenity

7.5.1 The proposed building would project approximately 3.5 metres further to the rear than the neighbouring property at number 38 Dell Road and the building would be positioned 1 metre away from the boundary with this property. As the proposed building would be built into the slope, the section of building which would project beyond the rear building line of number 38 would have a reduced massing when viewed from the neighbouring property. As such the development would not have a harmful impact on the occupiers of 38 Dell Road.

7.5.2 Because of the topography of the street, the proposed building would be positioned at a lower level than the neighbour at 34 Dell Road; the building would be approximately 4 metres higher than the raised deck area to the front of 34 Dell Road and there would be 2 metres separation between the building and the boundary with this property. As such, the proposed development would not have a harmful impact on residential amenity in terms of outlook or overshadowing. A condition is suggested to ensure that the windows in the side elevation of the building at first and second floor are obscurely glazed and top hung to restrict overlooking of the neighbouring properties.

7.6 Residential Standards

7.6.1 The application scheme provides a series of terraces to the rear of the site which would create a private and useable amenity space. Furthermore, in the absence of substantial above ground retaining structures, this amenity space would receive good access to natural daylight. Due to the change in the approach to the topography of the site, the application has addressed the Planning Inspector's concerns regarding the quality of the amenity space proposed.

7.6.2 All of the proposed flats would have direct access from within the building to the amenity space at the rear of the site. Following concerns with the integrity of the three-bedroom unit as family accommodation, the scheme has been amended from that first submitted. The three-bedroom unit has now been provided within the second floor of the development which means the windows of this unit overlook the amenity space and that the unit has direct access to the amenity space from within the building. A planning condition is suggested to ensure that the first terrace is private to the three-bedroom unit.

7.7 Highways and Parking

7.7.1 The application site lies within an area of Low Accessibility for public transport; however the provision of two car parking spaces is in accordance with the Council's adopted Car Parking standards. Since the availability of car parking is a key determinant in how people chose to travel, the provision of parking spaces less than the maximum standard would accord with aims to reduce travel by the private car. The access into the site is considered to be acceptable and on-site turning is proposed to serve the parking spaces. There have been no comments received from the Highways team, although the officer will be available to take questions regarding this at the panel meeting.

8.0 Summary

8.1 The current proposal has fully addressed the reasons for the dismissal of the planning appeal on this site. The chosen approach to developing on this steep site is more sympathetic to the character of the area and would create a much improved residential environment for prospective residents. Sufficient information has been submitted to ensure

that the development can be constructed without having a harmful impact on the stability of the slope. The recent changes to PPS3 do not affect the suitability of using this site efficiently to provide additional housing,

9.0 Conclusion

9.1 This application has been assessed as being acceptable to residential amenity and its local context and therefore the application is recommended for conditional approval.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

1(a), 1(b), 1(c), 2(c), 2(d), 2(e), 4(s), 6(a), 6(c), 6(d), 6(h), 6(g), 6(k), 7(a), 7(m), 7(v), 8(a), 9(a), 9(b) and PPS3 (2010)

JT for 31.08.10 PROW Panel

PLANNING CONDITIONS

1. APPROVAL CONDITION - Outline Permission Timing Condition [Performance Condition]

Outline Planning Permission for the principle of the development proposed and the following matters sought for consideration, namely the layout of buildings and other external ancillary areas, the means of access (vehicular and pedestrian) into the site and the buildings, the appearance and design of the structure, and the scale, massing and bulk of the structure are approved subject to the following:

- (i) Written approval from the Local Planning Authority of the landscaping of the site specifying both the hard, soft treatments and means of enclosures prior to any works taking place on the site;
- (ii) An application for the approval of the outstanding reserved matters shall be made in writing to the Local Planning Authority before the expiration of three years from the date of this Outline Permission; and,
- (iii) The development hereby permitted shall be begun [either before the expiration of five years from the date of this Outline permission, or] before the expiration of two years from the date of approval of the last application of the reserved matters to be approved [whichever is the latter].

Reason:

To enable the Local Planning Authority to control the development in detail and to comply with Section 91 and Section 92 of the Town and Country Planning Act 1990 (as amended).

2. APPROVAL CONDITION – Landscaping [pre-commencement condition]

The detailed landscaping scheme required by Condition 1 above shall clearly indicate the numbers, planting densities, types, planting size and species of trees and shrubs to be planted, treatment of hard surfaced areas and include an implementation timetable.

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 scheme 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

3. APPROVAL CONDITION - Details of building materials to be used [Pre-commencement condition]

Notwithstanding the details shown on the approved drawings no development works shall be carried out unless and until a schedule of materials and finishes (including full details of the manufacturers, types and colours of the external materials) to be used for external walls, windows and the roof of the proposed buildings has been submitted to and approved in writing by the Local Planning Authority.

REASON:

To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality.

4. APPROVAL CONDITION - Refuse and Cycle Storage [performance condition]

Bin and cycle storage shall be laid out with a level approach prior to the first occupation of the development hereby approved in accordance with the approved plans. The refuse facilities shall include accommodation for the separation of waste to enable recycling with doors hinged to open outwards. The approved storage shall be retained whilst the development is used for residential purposes, with bins kept in their allotted stores on non collection days.

REASON:

In the interests of highway safety and visual amenity and to encourage recycling.

5. APPROVAL CONDITION - Amenity Space Access [Performance Condition]

The external amenity space serving the development hereby approved, and pedestrian access to it, shall be made available prior to the first occupation of residential flats hereby approved and shall be retained with access to it at all times for the use of the residents to this scheme. The first terrace immediately adjacent to the building hereby approved shall be private to the three-bedroom unit.

REASON:

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

6. APPROVAL CONDITION – Boundary Treatment [pre-commencement condition]

Prior to the commencement of the development hereby approved, full details of boundary treatment including retaining walls and structures shall be submitted to the Local Planning Authority in Writing. The boundary treatment shall be implemented in accordance with the agreed details and thereafter retained.

REASON

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.

11. 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

12. APPROVAL CONDITION – Soils Analysis [pre-commencement condition]

Prior to the commencement of the development hereby approved a further Slope Stability analysis shall be submitted to the Local Planning Authority for approval in writing following the determination of the actual loads on site. The development shall proceed in accordance with the agreed details.

REASON

In the interests of the stability of the site.

13. APPROVAL CONDITION – Obscure Glazing [performance condition]

The first and second floor windows within the side elevations of the development hereby approved shall be non-opening and obscurely glazed up to a height of 1.7 metres from the internal floor level.

REASON

In the interests of the privacy of the neighbouring properties.

14. APPROVAL CONDITION – Privacy screening to roof terraces [pre-commencement condition]

Prior to the commencement of the development hereby approved a scheme detailing screening to the roof terraced areas shall be submitted to the Local Planning Authority for approval in writing. The details shall include screens of no less than 1.8 metres in height to the northern and southern sides of terraces. The screens shall be implemented as approved prior to the occupation of the flats and thereafter retained whilst the units are in residential occupation.

REASON

In the interest of the privacy of the adjacent residential occupiers

15. APPROVAL CONDITION – Piling Method [pre-commencement condition]

Prior to the commencement of the development hereby approved, the applicant shall submit in writing to the Local Planning Authority the proposed method of piling to be used in the construction of development within that phase. No development within the relevant phase shall commence until the submitted details have been agreed in writing by the Local Planning Authority. Development shall be implemented and proceed only in accordance with the agreed details.

REASON

In the interests of the stability of the slope and the amenities of the neighbouring occupiers

16. APPROVAL CONDITION – Foul and Surface Water Disposal [pre-commencement condition]

Prior to the commencement of the development hereby approved details of the proposed means of foul and surface water sewerage disposal have been submitted to and approved by the Local Planning Authority in writing. The development shall proceed in accordance with the agreed details.

REASON

To ensure that the development does not adversely impact on the public sewer system

17. APPROVAL CONDITION – Parking and Access [performance condition]

The on-site car parking spaces and the access to them shall be provided on site in accordance with the plans hereby approved and made available for use prior to the dwellings first coming into occupation and retained as approved. The parking shall be thereafter retained for that purpose and not used for any commercial use.

REASON

To ensure that adequate parking is provided to serve the development

18. APPROVAL CONDITION - Construction Method Statement [Pre-commencement condition]

Before any development or demolition works are commenced details shall be submitted to and approved in writing by the Local Planning Authority making provision for a Construction Method Statement (CMS) for the development. The CMS shall include details of: (a) parking of vehicles of site personnel, operatives and visitors; (b) loading and unloading of plant and materials; (c) storage of plant and materials, including cement mixing and washings, used in constructing the development; (d) treatment of all relevant pedestrian routes and highways within and around the site throughout the course of construction and their reinstatement where necessary; (e) measures to be used for the suppression of dust and dirt throughout the course of construction; (f) details of construction vehicles wheel cleaning; and, (g) details of how noise emanating from the site during construction will be mitigated. The approved CMS shall be adhered to throughout the development process unless agreed otherwise in writing by the local planning authority.

REASON:

In the interest of health and safety, protecting the amenity of local land uses, neighbouring residents, the character of the area and highway safety.

19. APPROVAL CONDITION – Land Stability Construction Method [performance condition]

The development shall proceed in accordance with the submitted Slope Stability report and construction method details unless otherwise agreed in writing by the Local Planning Authority.

REASON

In the interests of the stability of the slope and the safety and amenity of the neighbouring properties.

Notes to Applicant

Pre-Commencement Conditions

Your attention is drawn to the pre-commencement conditions above which require the full terms of the condition to be satisfied before development commences. In order to discharge these conditions you are advised that a formal application for condition discharge is required. You should allow approximately 8 weeks, following validation, for a decision to be made on such an application. It is important that you note that if development commences in without the condition having been formally discharged by the Council in writing, any development taking place will be unauthorised in planning terms, invalidating the Planning Permission issued. Furthermore this may result in the Council taking enforcement action against the unauthorised development. If you are in any doubt please contact the Council's Development Control Service.

Performance Conditions

Your attention is drawn to the performance conditions above which relate to the development approved in perpetuity. Such conditions are designed to run for the whole life of the development and are therefore not suitable to be sought for discharge. If you are in any doubt please contact the Council's Development Control Service.

Party Wall Act

The applicant is reminded that further agreements may be required under the Party Wall Act (1996) as this application proposes development on or near the boundary with a neighbouring property. Further guidance can be obtained from the Council's Building Control Officer on 023 8083 2558.

Application 10/00454/OUT

APPENDIX 1

05/00950/OUT

Refused 18.08.05

Erection of 2 no. two-storey semi-detached dwellings (outline application for siting, means of access and external appearance)

05/01707/FUL

Conditionally Approved 13.02.06

Redevelopment of the site by the erection of two semi-detached houses with accommodation in roof slope.

07/00499/OUT

Refused 25.05.07

Redevelopment of the site by the erection of a 3 storey building to provide 6 flats (4 no 3 bed & 2 no. 1 bed).

07/01770/OUT

Refused 13.03.08

Outline application for redevelopment of the site by the erection of a 3 storey building to provide 6x two bed flats (resubmission - appearance and layout listed for consideration).

Reasons for refusal

01.

The proposed introduction of 6 two-bedroom flats would result in the overdevelopment of the site by reason of intensified activity and would therefore be out of keeping with the family housing which characterise Dell Road having an adverse impact on the character of the area. Moreover, the development fails to provide adequate useable amenity space for proposed number of units (which are capable of accommodating families with small children) due to the steep gradient of the amenity space. The development would thereby prove contrary to the provisions of policies SDP1, SDP7 and H7 of the Local Plan Review (Adopted Version March 2006) and as supported by the relevant sections of the Residential Design Guide SPD 2006.

02.

The site is identified as having potential for land instability and on the basis of insufficient plans and supporting information the Local Planning Authority is not satisfied that the land can support the proposed development, that the safety of the prospective residents would not be threatened by unstable land or that the proposal would not result in land stability issues on the neighbouring residential sites. The development therefore proves contrary to the provisions of SDP1 and SDP23 of the Local Plan Review (Adopted Version March 2006) and Planning Policy Guidance 14: Development on unstable land.

03.

In the absence of a completed S.106 Legal Agreement the proposals fail to mitigate against their direct impact and do not, therefore, satisfy the provisions of policy IMP1 of the City of Southampton Local Plan Review Adopted Version March 2006 as supported by the Council's Supplementary Planning Guidance on Planning Obligations (August 2005 as amended) in the following ways:-

A) Measures to satisfy the public open space requirements of the development have not been secured. As such the development is also contrary to the City of Southampton Local Plan Review Adopted Version March 2006 Policy CLT7.

B) Measures to support sustainable modes of transport such as necessary improvements to public transport facilities and pavements in the vicinity of the site have not been secured contrary to the City of Southampton Local Plan Review Adopted Version March 2006 policies SDP1, SDP2 and SDP3;

C) Measures to support strategic transportation initiatives have not been secured. As such the development is also contrary to the City of Southampton Local Plan Review

Adopted Version March 2006 policies SDP1, SDP2 and SDP3;

(D) In the absence of a Highway Condition survey the application fails to demonstrate how the development will mitigate against its impacts during the construction phase;

(E) Measures to secure replacement trees off-site contrary to the provisions of policy SDP1 of the City of Southampton Local Plan Review Adopted Version March 2006.

(F) In the absence of a Waste Management Plan the application has failed to explain how the dual use facility will be managed to ensure satisfactory arrangements for collection. As such the development is also contrary to the City of Southampton Local Plan Review Adopted Version March 2006 policies SDP1 as supported by Part 9 of the Council's approved Residential Design Guide SPD (2006).



Appeal Decision

Site visit made on 2 December 2008

by **Colin Tyrrell MA(Oxon) CEng MICE FIHT**

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

The Planning Inspectorate
4/11 Eagle Wing
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or: uk

Decision date:
11 December 2008

Appeal Ref: APP/D1780/A/08/2085162

36 Dell Road, Southampton SO18 1QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr A K Sumra against the decision of Southampton Council.
- The application Ref 07/01770/OUT, dated 11 September 2007, was refused by notice dated 13 March 2008.
- The development proposed is the erection of a 3-storey building to provide six 2-bed flats (outline application including layout and appearance).

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is for outline planning permission, with all matters reserved except for layout and appearance.
3. The copy of the application included on the file was dated 11 September 2007 and was apparently for an earlier proposal when full planning permission was sought. At my request prior to the site visit, the Council has provided a copy of the correct application for the outline approval which is the subject of this appeal. This is also dated 11 September 2007, though the Council's refusal notice refers to a date of 11 January 2008 when the relevant drawings were received. It appears that the same form was used for both applications, without changing the date but with the type of application box altered in manuscript. Neither version of the application describes the proposed development, so I have adopted the description used by the Council in the refusal notice.

Main Issue

4. In my opinion, the main issue is whether the site can accommodate a development of the density proposed whilst retaining reasonable amenity space for future residents and ensuring geotechnical stability of the appeal site and its surroundings.

Reasons

Geotechnical Stability

5. The April 2008 Soils Ltd Slope Stability Report ref J10702 (which includes a date in the footer of 3 September 2008) states that the stability of the ground to the rear of the site is marginal and shows that along the boundary with 34

Dell Road a vertical retaining wall of contiguous piles of maximum height in excess of 8m would be required to allow excavation of the flat area for the development. On the boundary with 38 Dell Road, a similar vertical retaining wall of maximum height of about 6m would be required. Although the report deals in more detail with the terracing of the rear garden, in relation to these retaining walls it notes only that an engineer design would be required.

6. There is no indication on the drawings as to how such heavy engineering structures could be physically accommodated on the boundary. Nor is there any information as to how such major works could be constructed without damaging the side extension to No 34 which extends almost to the boundary at a point where the adjacent retaining wall would be approaching its maximum height.
7. The appellant's agent states in his letter of 25 November 2008 that the land stability report prepared by Solis Ltd (*sic*) specifies the approved methods of works to be carried out and that these have been endorsed by the Council's engineering officer. However, the Soils Ltd report before me remarks only that engineering designed solutions would be required for both the terracing of the rear garden and the retaining walls along the side boundaries. I do not consider that these remarks constitute a specification for approved works, nor do I have any information as to the Council's view as to their adequacy. The further report produced by Barron & Partners (ref 8102/mg/dis/R1 rev. A, undated) discusses possible methods of retaining the rear slope of the garden in very general terms but does not address the issue of the side boundary retaining walls.
8. In my opinion, the information produced by the appellant falls well short of identifying appropriate remedial measures (paragraph 34 of PPG 14) and demonstrating that such measures would not adversely affect neighbouring land (paragraph 37 of PPG 14). It seems to me that the full implications of the major engineering works which would be required to render this site developable in the manner proposed have not been properly identified and that the proposal is therefore contrary to Local Plan Policy SDP 23 as well as to national guidance in PPG14.

Development Density and Amenity Space

9. The proposed development is equivalent to a density of some 100 dwellings per hectare, which accords with the Council's range of 50-100 dph in Local Plan Policy H8 for a medium accessibility area such as Dell Road. Furthermore, the front elevation in my opinion would sit comfortably in the streetscene and the depth of the development, though greater than some of its neighbours, would not be especially alien in its mixed surroundings.
 10. The difficulty with the proposal, it seems to me, results from the awkward topography and the heavy engineering works which would be required to render the site developable in the manner proposed. The living room of the rear ground-floor flat would look out alongside an 8m vertical retaining wall which, being on the south side, would shade the area throughout the day. The outlook from the living rooms of the two flats immediately above would be similarly restrained and restricted by the adjacent retaining wall. The only area of amenity space which would not be substantially shaded by the retaining wall
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would be the section on the rear boundary which would be higher than the roof of the proposed development and could only be reached via three flights of steps.

11. I recognise that other houses in the area have rear gardens which are awkward to access and to cultivate. However it seems to me that the combination of the shading resulting from the retaining wall and the difficult access to the very limited areas of usable and attractive amenity space would result in a development which failed to accord with the principles of good design in Local Plan Policy SDP1 and in national policy PPS1 and PPS 3, as well as with the detailed advice in the Council's Residential Design Guide.

Other Consideration

12. No s106 agreement is before me to satisfy the Council's reason for refusal relating to matters A-F as listed in the notice of refusal. Although the appellant's agent indicated in his letter of 17 November 2008 that the signed agreement would be available shortly, its current absence represents a failure to comply with Local Plan Policy IMP1 relating to the necessary infrastructure, services, facilities and amenities to meet the needs of the development.

Conclusion

13. For these reasons, and taking into account all other matters raised, I conclude that the proposals would cause harm and would not accord with the development plan. I therefore dismiss the appeal.

Colin Tyrrell

INSPECTOR

POLICY CONTEXT

Core Strategy - (January 2010)

| | |
|------|---|
| CS4 | Housing Delivery |
| CS5 | Housing Density |
| CS13 | Fundamentals of Design |
| CS19 | Car & Cycle Parking |
| CS20 | Tackling and Adapting to Climate Change |

City of Southampton Local Plan Review – (March 2006)

| | |
|-------|-----------------------------|
| SDP1 | Quality of Development |
| SDP4 | Development Access |
| SDP5 | Parking |
| SDP7 | Urban Design Context |
| SDP9 | Scale, Massing & Appearance |
| SDP10 | Safety & Security |
| SDP12 | Landscape & Biodiversity |
| SDP13 | Resource Conservation |
| H1 | Housing Supply |
| H7 | The Residential Environment |

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Other Relevant Guidance

| | |
|-------|---|
| PPS1 | Delivering Sustainable Development (2004) |
| PPS3 | Housing (2010) |
| PPG13 | Transport (2001) |
| PPG14 | Development on Unstable Land |

Structural Engineers Comments

Slope stability analysis has been carried out for local and overall (shallow and deep) slips – but with assumed loads. The report from Soils Limited recommends that the analysis is re-run when the final actual loads have been determined. **This should be a condition of approval.**

The consultant involved is Malcolm Woodruff; he and Soils Limited are both competent persons.

In the temporary condition of constructing the first Permacrib wall, the drawing states that 'sheet piles are to be installed if required', this requirement is determined by the installation of monitoring stations. The designers will need to set limits for intervention.

One typo error has been noticed on drawing no 20080601/SR1 – Note 1 – the slope should be 1 vertical to 1.8 horizontal (not vertical as shown on the drawing).

In summary – we do not have major concerns with this one.

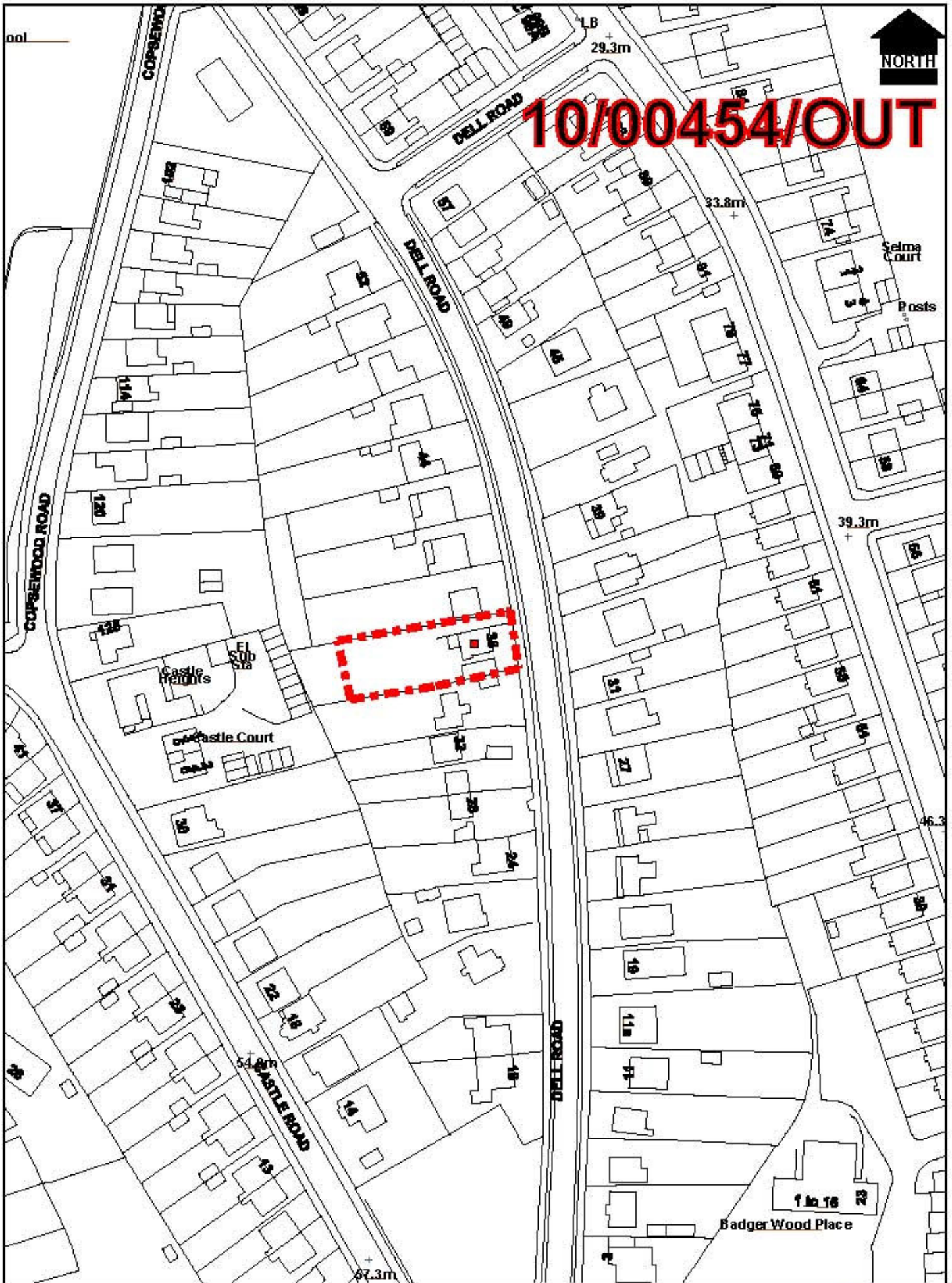
- The applicant certainly appears to have given adequate consideration regarding any impact to the adjacent properties.
- There is no grounds to assume that the proposals (provided they are executed competently) will damage the adjacent properties.
- This scheme will inevitably require the employment of the Party Wall Act (with associated condition surveys etc).
- The correct use of the Party Wall Act should provide the neighbours with all the necessary protection/comfort.
- On the basis of our interpretation of the drawings (esp SR2, section 3); the completed works will see a retaining wall (visible from No 36 only) to the south boundary which extends no further than a single flight of steps.
- We would envisage some form of boundary fence subsequently being installed on top of the retaining wall at this location. This fence will need to be adequately robust so that it affords the necessary protection to falls from height (down from No 34 onto the steps of No 36).
- The piles on the Northern boundary are installed to form the basement wall – they will not therefore result in a retaining wall to that boundary, and will not be visible on completion of the work (refer to SR2, section 4).

In short – although the measures required by this scheme are somewhat complicated and more than what is often required (due to the slopes and adjacent properties), we remain satisfied that there is no ground on the basis of slope stability to refuse this application.

John Simpkins

Team Leader - Civil Engineering

Southampton Property Services



10/00454/OUT

Scale : 1:1250

Date : 16 August 2010

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