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# Appeal Decision

Site visit made on 13 February 2010

**by Megan Thomas BA Hons in Law, Barrister**

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

Decision date: 15 March 2012

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## Appeal Ref: APP/D1780/A/11/2163023

### Land near Moss Cottage, Weston Lane, Southampton SO19 9GH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Propus Developments Ltd against the decision of Southampton City Council.
  - The application Ref 10/01746/FUL, dated 15 December 2010, was refused by notice dated 18 April 2011.
  - The development proposed is the erection of one 3 bedroom house.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The site address details on the planning application form indicate that the appeal site is at Moss Cottage, Weston Lane, Southampton. I consider that it is more accurate to describe the site as 'near' Moss Cottage rather than 'to the rear of', or in any other direction. I have amended the site details entered in the box above accordingly.

### Main Issues

3. The three main issues are the effect of the proposal on the character and appearance of the area with particular regard to the spatial pattern; the effect of the proposal on the living conditions of the occupants of Elsie Cottage and Florinda Cottage with regard to private amenity space, and the appropriateness of the proposal on the appeal site with regard to flood risk.

### Reasons

#### *Character and appearance*

4. The appeal site is situated off a cul-de-sac known as Holt Court. Holt Court runs in a broadly south-easterly direction off Weston Lane. Nos 7 to 10 Holt Court face the entrance to Holt Court and no.20 faces the flank wall of 9 & 10 Holt Court with the roadway in between the two. No.20 is adjacent to the appeal site, to its south-east, and it is one of a terrace of 4 modern dwellings.
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5. Some of the buildings within Holt Court and some which front Weston Lane were built pursuant to a single planning permission (ref 07/00718/FUL) granted in 2007. On the approved site plan (drawing no. PO2 Rev A B C ) the appeal site is shown as part of the rear gardens to Elsie Cottage and Florinda Cottage and also as part of the rear gardens of three of the (then) proposed terraced units facing Weston Lane (nos 6, 8 & 10). The appellants indicate in their representations that those 3 terraced houses were sold off without the inclusion of any land within the appeal site within their curtilages. At the time of my site visit, the rear gardens to Elsie Cottage and Florinda Cottage are shorter and smaller than shown on the site plan (drawing no. PO2 Rev A B C) and the Written Statement from the appellant states that the appeal site has not formed part of the legal ownership of either Elsie or Florinda Cottages "since 2006".
6. The proposal would provide a modest two storey detached dwelling with off-street parking for two vehicles at the front and a garden to the rear. The north-west boundary of the appeal site forms the rear boundaries of dwellings on Weston Lane – nos 6,8 & 10 and Florinda Cottage and Elsie Cottage. Abbey Water Court is a residential development situated to the south-west of the appeal site but it does not immediately adjoin it. The waterfront of the Solent known as Weston Shore is close by.
7. The appeal site is currently vacant urban land in a relatively sustainable location and as such is to be used efficiently and effectively, where possible. However, development of it should not compromise the character or appearance of the area. The current spatial relationships between the blocks of development in the immediate area of the appeal site all make a valuable contribution to its appearance and character. This is, in part, owing to several of the buildings being planned and built at the same time pursuant to the 2007 permission.
8. In my view, it is essential to maintain an air of openness and maintain vistas between the buildings in this area. The entrance to Holt Court is relatively narrow with a layby on the southern side allowing for some parking, then it opens into a wider area then narrows again as it passes in front of the 4 units containing no.20. The view in a south-westerly direction across the appeal site towards Abbey Water Court contributes to the openness of the area. This is particularly so because Florinda Cottage and Elsie Cottage have bulky two storey rear extensions which extend beyond the rear (uneven) building lines of 4,6,8 & 10 Weston Lane and have a rather domineering effect. Whilst the proposed house would have a flat roof and therefore be lower than traditional two-storey housing, it would nevertheless fill much of the width of the plot and would cut down the view through to Abbey Water Court, harming the streetscape.
9. Furthermore, the proposed house would be built right up to the common boundary with no.20 and, as I have said above, would fill much of the width of what is a narrow plot of land. Notwithstanding the simple design and flat roof, the dwelling would appear as if it had been squeezed into its plot. The off-street parking of two cars at the front of the plot would also detract from the openness of the plot. In my view there would be no room for any meaningful landscaping at the front of the facade or the plot and this would not, in any event, compensate for the loss of spaciousness between no.20 and the Cottages. To my mind, the 2007 planning permission for the Holt Court area delivered a scheme with well-thought-out spatial relationships given the heights and

orientations of the buildings to be provided on the site. Refuse bin areas for nos 6, 8 and 10 Weston Avenue were shown on land which is now part of the appeal site and some landscaping is shown to the west of the bins but land is shown essentially as garden land with no significant built development upon it.

10. On this first issue, I find that the proposal would unduly harm the character and appearance of the area particularly the spatial pattern. It would be contrary to saved policies SDP7 (i) (ii) & (iii), SDP9(i) and (v) of the City of Southampton Local Plan Review (2006) 'LPR', policy CS13 of the City of Southampton Core Strategy (2010) 'CS' and the Residential Design Guide (2006) 'RDG'.

#### *Private amenity space*

11. The Council contend that the proposal would result in substandard private amenity space for the occupants of Elsie Cottage and Florinda Cottage. However, it appears that the parts of the appeal site that were once part of the gardens of those cottages have been sold off prior to 2006. They have not apparently been part of those residential planning units, at least in legal terms, since that time. At time of my site visit, there were boundary fences delineating the ends of the rear gardens of the Cottages. The development of the appeal site would not cause the private amenity space available to those properties to be reduced. Therefore, on the information available to me, I do not consider that the proposed scheme would reduce the private amenity space available to the occupants of Florinda Cottage and Elsie Cottage and that aspect of their living conditions would not unduly be affected. There would be no conflict with policies SDP1(i) and SDP7 (v) of the LPR or with guidance in the RDG.

#### *Flood risk*

12. The Environment Agency objected to the planning application as there was no flood risk assessment. The appellants have produced one dated October 2011 and it is not disputed by the Council. The assessment indicates that the site is within Flood Zone 1 but the southern side abuts Flood Zone 3. There has been further analysis of the topography, the flooding history of the area and the off-site implications of any flood water and the assessment concludes that, with various measures in place, the site is wholly suitable for the development envisaged. I too am satisfied that there would be no undue harm to the development itself or to surrounding development as a result of flood water and that the provisions in PPS25 *Development and Flood Risk* and the policy requirements in the LPR and CS could be met.

#### **Other Matters**

13. The fourth reason for refusal referred to the failure of the appellant to demonstrate that the development could contribute towards tackling climate change as required by the Council's Climate Change Strategy (2004) and PPS1. However, the appellant has indicated its agreement to a planning condition being attached to a potential planning permission which would require the development to achieve at least Level 3 of the Code for Sustainable Homes as required by policy CS20 of the CS. The Council consider that that condition would overcome their objection and I agree with that assessment. There is no reason to refuse the scheme on its lack of contribution towards tackling climate change.

## **Conclusion**

14. Whilst I have found the scheme would not cause undue harm to the living conditions of the occupants of Elsie and Florinda Cottages with regard to their amenity space, that there would be no unacceptable flood risk issues and no reason to refuse on climate change grounds, I have found that there would be harm to the character and appearance of the area. In weighing up the benefits and disbenefits, I have borne in mind that the scheme would inject investment into the economy and would be likely to use local labour which are aims supported by 'Planning for Growth'. I have also borne in mind the increase, albeit small, in the housing supply and the help towards the goal of reducing climate change. However, I have concluded that the substantial harm flowing from the scheme to the character and appearance of the area outweighs those other considerations. Therefore, having taken into account all representations made, I dismiss the appeal.

*Megan Thomas*

INSPECTOR