

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

<b>Application address:</b> 6 Furzedown Road SO17 1PN			
<b>Proposed development:</b> Erection of a detached 2-storey, 2-bedroom dwelling with associated amenity space, refuse and cycle storage			
<b>Application number</b>	14/00037/FUL	<b>Application type</b>	FUL
<b>Case officer</b>	Stuart Brooks	<b>Public speaking time</b>	5 minutes
<b>Last date for determination:</b>	04.03.2014	<b>Ward</b>	Portswood
<b>Reason for Panel Referral:</b>	Request by Ward Member and five or more letters of objection have been received	<b>Ward Councillors</b>	Cllr Adrian Vinson Cllr Matthew Claisse Cllr Linda Norris

<b>Applicant:</b> Dr Anneliese Greene	<b>Agent:</b> Shield Limited
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<b>Recommendation Summary</b>	<b>Conditionally approve</b>
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<b>Community Infrastructure Levy Liable</b>	<b>Yes</b>
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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. Although this is a redevelopment of a residential garden, the introduction of a dwelling in this backland location does not harm the immediate street scene as it addresses the street frontage of Hawthorn Road, which has a sufficient variety of dwellings with no such distinct character, whilst the privacy, light and outlook of the neighbouring occupiers will be safeguarded by ensuring the minimum privacy distances are met and similar relationship on the adjoining properties under an extant permission was accepted by an Inspector. The dwelling will also further contribute to the city's family housing need. Other material considerations have been considered 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. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012).

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

<b>Appendix attached</b>			
1	Development Plan Policies	2	Planning history
3	Plans and decision notice for 13/01106/FUL	4	Appeal decision and approved plans for 7 and 8 Furzedown Road

## **Recommendation in Full**

### **Conditionally approve**

#### **1.0 The site and its context**

1.1 The application site is located in the ward of Portswood to the north of Highfield Lane, and is presently part of the rear garden of 6 Furzedown Road, a 2 storey semi-detached dwelling backing onto Hawthorn Road. The properties in Furzedown Road mainly consist of large semi detached dwellings, with long rear gardens backing onto Hawthorn Road containing ancillary outbuildings and low scale boundary treatment. The properties in Hawthorn Road are mainly 2 storey dwellings with a mix of styles and types of no particular character.

#### **2.0 Proposal**

2.1 This is a resubmission of previously refused application 13/01106/FUL. It is proposed to erect a 2 storey detached dwelling (2 bedrooms) to the rear of the garden creating a street frontage onto Hawthorn Road, with associated parking and amenity space.

Since the submission of the application, amended plans have been submitted to change the gable profile of main roof to a hipped profile, whilst moving the main entrance to the front elevation, and reducing the depth of the building and subsequently moving the front building line further back to just 500mm beyond the facades of the dwellings approved to the rear of 7 and 8 Furzedown Road. These minor changes are considered to be an improvement of the original scheme with no further material harm to the amenity of the neighbouring occupiers or the visual character of the street scene.

#### **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 27<sup>th</sup> 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.
- 3.4 Policy CS5 acknowledges that whilst there is continuing pressure for higher densities in order to deliver development in Southampton, making efficient and effective use of land, however, the development should be an appropriate density for its context, and protect and enhance the character of existing neighbourhoods.

#### **4.0 Relevant Planning History**

- 4.1 A detached dwelling was recently refused on the application site (ref no. 13/01106/FUL). This application is a revised resubmission (see **Appendix 3** for the plans and decision notice). The relevant planning history for the site is attached to **Appendix 2**.
- 4.2 Planning permission was granted at appeal (ref no. APP/D1780/A/09/203507) in 2009 for a pair of semi-detached dwellings on the adjoining land to the rear of 7 and 8 Furzedown Road, which was then granted permission for extension of time in 2012 (ref no. 12/00345/TIME). The plans and appeal decision are attached to **Appendix 4**.

#### **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, and erecting 2 site notices (14.01.2014 and 17.01.2014). At the time of writing the report **6** representations have been received from surrounding residents, including a panel referral from a Local Ward Cllr. The following is a summary of the points raised:

##### Comment

Garden grabbing.

##### Response

Whilst there is no longer a presumption in favour of development on garden land, there is no planning policy which specifically prohibits such development. Appropriate development of gardens can deliver much needed housing and, therefore, each application must be considered on its own merits. according to the context and character of the local area.

##### Comment

The proposed dwelling is out of character with the surrounding area in Hawthorn Road. In particular, its narrow proportions gives an appearance of being shoe horned in relation to the larger dwellings in the street.

##### Response

The Inspector found that the semi-detached dwellings allowed at the rear of 6 and 7 Furzedown Road were not out of keeping with the character of Hawthorn Road. Although these dwellings have not yet been implemented, this Inspectors

reasoning for granting houses on the adjacent site and the fact that remains an extant permission is a material consideration. The principle of developing the rear gardens with 2 storey dwellings fronting Hawthorn Road has been established. Although, the footprint, proportions, and detached nature of this property is different from surrounding dwellings, the pattern of development in the immediate area is not uniform and is mixed in terms of dwelling styles. Therefore, the proposed dwelling would not appear out of character or materially harm the character of the street.

Comment

Loss of amenity space for existing resident's garden.

Response

The existing will retain 73sqm of private amenity space which meets the required minimum size standards of 70sqm under the Residential Design Guide for a semi detached dwelling.

Comment

There will be the loss of existing one or two off street parking spaces, and a cycle path will be introduced along Furzedown Road reducing off street parking spaces available. No off street parking is being provided which will add to on street parking pressure and congestion.

Response

The Inspector previously noted that the street was heavily parked, however, the provision of one off street parking space overcome their concerns. The Highway Officer raised no objection to the previous application.

Comment

A similar application for a 3 bed dwelling was refused last year.

Response

This revised scheme has addressed the previous reasons for refusal in terms of design, character, and impact on neighbouring amenity.

Comment

The application form does not accurately state that there is no dropped kerb access; 2 vehicles parked at the property rather than 1; the rear area is used as a garden not driveway; there is a protected tree overhanging the boundary.

Response

These issues are noted. The Case Officer has inspected the site, and other Council Officer's have independently assessed these aspects of the development.

Comment

No tree report has been provided to demonstrate that the tree will be protected.

Response

The Tree Officer has no objection to the proposal as it will not be detrimental to the protected tree.

Comment

Loss of privacy and outlook to occupiers of 5 Furzedown Road given proximity to garden and being overlooked by first floor windows, as the minimum 21m back to back separation distance is not met. Furthermore, there will be loss of privacy

from overlooking to 3 to 9 Furzedown Road, and loss of light to neighbouring properties.

#### Response

In terms of loss of privacy, light and outlook, this similar relationship with the neighbouring occupiers was accepted by the Inspector on the extant permission at 6 and 7 Furzedown Road. The side windows facing the rear garden of 5 Furzedown Road are obscure glazed, where the first floor window will be fixed shut and the ground floor will be top opening only, as well as being adjacent to the rear end of the neighbour's garden away from their private area. The minimum interlocking distance between the first floor windows is achieved exactly and although the back to back distance between the ground floor windows falls under 21m, there is no harmful loss of privacy as the boundary fence screens any direct interlocking. The 21m separation distance is met between other dwellings no. 3 to 9, where the angle of overlooking is oblique and therefore not directly overlooking to cause harm the neighbour's privacy.

#### Comment

Noise disturbance from construction.

#### Response

A condition will be applied to ensure construction works are carried out during the daytime and not Sundays to minimise disturbance. Any statutory noise nuisance would be enforced under Environmental Health powers.

### **Consultation Responses**

- 5.2 **SCC Highways** - No objection under previous application 13/01106/FUL following no change to the access and parking layout, subject to conditioning construction management, and no structures taller than 600mm along frontage.
- 5.4 **SCC Sustainability Team** – Objection raised as the pre-estimator does not achieve level 4 under Code for Sustainable Homes in accordance with policy CS20.

#### Response

This can be conditioned to agree further details prior to commencement.

- 5.5 **SCC Tree team** – No objection. There is a protected Beech tree on the adjacent land, the rear garden of 5 Furzedown Road. However the proposed dwelling is far enough away from the tree to not have a detrimental impact on the tree. The current boundary fence is suitable tree protection fencing.
- 5.6 **SCC Environmental Health (Pollution & Safety)** - No objection, subject to construction management.

5.9 **SCC Ecology** – No objection, as site is unlikely to provide important habitat for local biodiversity. Any slow worms present will be able to disperse into surrounding gardens by strimming the vegetation and removing the piles of building materials before the start of the hibernation period (generally mid to end of October).

5.12 **Southern Water** – No objection.

## 6.0 **Planning Consideration Key Issues**

6.1 The key issues for consideration in the determination of this planning application are:

- Principle of Development
- Design, scale, and character
- Living conditions of existing and future occupiers
- Highway safety

### 6.2 **Principle of Development**

6.2.1 The NPPF does not classify residential gardens as previously developed land, and requires the Council's to set its own policies to resist inappropriate development to rear gardens where harm is caused to the character of the local area (para 53 refers). The Council does not have a policy which resists backland development and therefore the site should be assessed on the basis of the context and character of the local area.

### 6.3 **Design, scale, and character**

6.3.1 It is noted that redevelopment of the rear gardens at no. 7 and 8 was refused under application 08/01110/FUL and then allowed at appeal in 2009 (ref no. APP/D1780/A/09/2093507 refers). The Inspector concluded that the introduction of a new dwelling on the Hawthorn Road frontage would not harm the character of the local area, as there is no distinctive character along Hawthorn Road given the mix of building types, open spaces, and service road appearance (para 5 refers). Furthermore, the Inspector recognised that new development does not necessarily have to be of the same form as its surroundings. As such a dwelling standing in isolation addressing the street frontage would not visually harm the street scene, even if the rest of rear gardens of Furzedown Road were not subsequently developed. Although the proposal constitutes development of a residential garden, by creating a new street frontage this will not result in a backland development which is out of character with Hawthorn Road.

6.3.2 It is considered that the revised design of the dwelling overcomes the previous reasons for refusal by improving proportions of the scale and massing, and providing a less dominant and neutral roof form in relation to the mixed style of other dwellings in Hawthorn Road.

6.3.3 The Tree Officer has raised no objection to the impact on the protected Beech tree to the rear garden of 5 Furzedown Road, as the proposed dwelling is far enough away from the tree to not have a detrimental impact on the tree. The current boundary fence will be suitable tree protection fencing.

## 6.4 Living conditions of existing and future occupiers

6.4.1 In relation to the previous application, the revised dwelling no longer has rooms in the roof. In terms of loss of privacy, light and outlook, this similar relationship with the neighbouring occupiers was accepted by the Inspector on the extant permission at 6 and 7 Furzedown Road. The side windows facing the rear garden of 5 Furzedown Road are obscure glazed, where the first floor window will be fixed shut and the ground floor will be top opening only, as well as being adjacent to the rear end of the neighbour's garden away from their private area. The minimum interlocking distance between the first floor windows does not exceed 21m. Although the back to back distance between the ground floor windows falls under 21m, there is no harmful loss of privacy as the boundary fence would screen any direct interlocking. The 21m separation distance is met between other dwellings no. 3 to 9, where the angle of overlooking is oblique and therefore not directly overlook to cause harm the neighbour's privacy.

6.4.2 The garden size of the proposed dwelling will fall under the Council's minimum size standard as set out in paragraph 2.3.14 of the Residential Design Guide. The proposed detached dwelling will provide 67sqm of amenity space compared the minimum size of 90sqm and, however, on balance the shortfall is not considered to harm the living conditions of the occupiers as it will only be a 2 bedroom dwelling and still be a useable space with a length of 10m. Furthermore, the same subdivision of the garden into two separate gardens has been accepted by the Inspector on the adjoining site. The existing semi detached dwelling will have 73sqm of amenity space remaining, which meets the minimum standard of 70sqm required.

## 6.5 Highway safety

The Highway Officer previously raised no objection, subject to conditioning construction management, and no structures taller than 600mm along frontage. The Inspector previously noted that the street was heavily parked, however, the provision of one off street parking space overcome their concerns. As such, it is considered that highway safety will not be adversely affected.

## 7.0 Summary

7.1 In summary, although this is a redevelopment of a residential garden, the introduction of a dwelling in this backland location does not harm the immediate street scene as it addresses the street frontage of Hawthorn Road, which has a sufficient variety of dwellings with no such distinct character, whilst the privacy, light and outlook of the neighbouring occupiers will be safeguarded by ensuring the minimum privacy distances are met and similar relationship on the adjoining properties under an extant permission was accepted by an Inspector. The dwelling will also further contribute to the city's family housing need.

## 8.0 Conclusion

8.1 In conclusion, the application is considered to have an acceptable impact and therefore can be 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 - Details of building materials to be used [Pre-Commencement Condition]**

Notwithstanding the information shown on the approved drawings and application form no development works shall be carried out unless and until a written schedule of external materials and finishes has been submitted to and approved in writing by the Local Planning Authority. Development shall be implemented only in accordance with the agreed details. These shall include full details of the manufacturers, types and colours of the external materials to be used for external walls, windows, doors and the roof of the proposed buildings. It is the Local Planning Authority's practice to review all such materials on site. The developer should have regard to the context of the site in terms of surrounding building materials and should be able to demonstrate why such materials have been chosen and why alternatives were discounted. If necessary this should include presenting alternatives on site.

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.

**03. 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 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 dwelling.

REASON:

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



#### 04. 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 in accordance with the approved plans for 1 vehicle to be parked. Notwithstanding the provisions of the Town and Country Planning General Development Order 1988 no fences walls or other means of enclosure including hedges shrubs or other vertical structures shall be erected adjacent to the back edge of the pavement above a height of 0.6m above carriageway level.

Reason:

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

#### 05. APPROVAL CONDITION - Means of enclosure [Pre-Occupation Condition]

Before occupation of the development hereby approved, details of the design and specifications of the means of enclosure including boundary treatment of the site shall be submitted to and approved in writing by the Local Planning Authority. The agreed boundary enclosure details shall be subsequently erected prior to the occupation of any of the units provided under this permission and such means of enclosure shall thereafter be retained and maintained to the boundaries of the site.

Reason:

In the interests of the visual amenities of the area and to protect the amenities and privacy of the occupiers of adjoining property.

#### 06. APPROVAL CONDITION - Refuse storage and collection [Performance Condition]

Unless otherwise agreed by the Local Planning Authority, except for collection days only, no refuse shall be stored to the front of the buildings hereby approved.

Reason:

In the interest of visual amenity and for the safety and convenience of the users of the adjacent footway.

#### 07. APPROVAL CONDITION - Code for Sustainable Homes [Pre-Commencement Condition]

Before the development commences, written documentary evidence demonstrating that the development will achieve at minimum Level 4 of the Code for Sustainable Homes in the form of a design stage assessment, shall be submitted to the Local Planning Authority for its approval, unless an otherwise agreed timeframe is agreed in writing by the LPA. No dwelling shall be occupied until a Final Code Certificate has been issued for it certifying that Code Level 4 has been achieved in accordance with the agreed details and thereafter retained.

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).

#### 08. APPROVAL CONDITION - Energy (Pre-Commencement Condition)

Written documentary evidence demonstrating that the development will at minimum achieve a reduction in CO2 emissions of 20% over part L of the Building Regulations shall be submitted to the Local Planning Authority and verified in writing prior to the first occupation of the development hereby granted. Technologies that meet the agreed specifications must be installed and rendered fully operational prior to the first occupation of the development hereby granted consent and retained thereafter.

##### REASON:

To reduce the impact of the development on climate change and finite energy resources and to comply with adopted policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010).

#### 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 - Cycle storage [Pre-Occupation Condition]

The development to which this consent relates shall not be brought into use in full or in part until secure, covered space has been provided in accordance with the approved plans. The cycle store hereby approved shall thereafter be retained on site for those purposes.

##### Reason:

To encourage cycling as an alternative form of transport.

#### 11. APPROVAL CONDITION - No other windows or doors other than approved [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 windows, doors or other openings including roof windows or dormer windows other than those expressly authorised by this permission shall be inserted in the development hereby permitted without the prior written consent of the Local Planning Authority.

##### Reason:

To protect the amenities of the adjoining residential properties

## 12. 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 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 E (outbuildings),

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.

## 13. APPROVAL CONDITION - Landscaping [Pre-occupation Condition]

Notwithstanding the submitted details before the occupation of development hereby approved a detailed hard and soft landscaping scheme and implementation timetable shall be submitted, which includes hard surfacing materials; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/planting densities where appropriate; a landscape management scheme.

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

## 14. APPROVAL CONDITION - Window specification limitations [Performance Condition]

Unless the Local Planning Authority agree otherwise in writing and notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (as amended), or any Order revoking or re-enacting that Order, in relation to the development hereby permitted, all windows at ground floor level on the elevation facing south shall be top-opening and fitted with obscure glass, whilst the first floor window shall

be permanently fixed shut and fitted with obscure glass. The windows shall be retained in this manner for the duration of use of the building for residential occupation.

Reason:

To protect the amenity and privacy of the adjoining property.

#### 15. 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.

#### Note to Applicant - Community Infrastructure Liability (Approval)

You are advised that the development appears liable to pay the Community Infrastructure Levy (CIL). Please ensure that you assume CIL liability prior to the commencement of the development (including any demolition works) otherwise a number of consequences could arise. For further information please refer to the CIL pages on the Council's website at: <http://www.southampton.gov.uk/s-environment/policy/community-infrastructure-levy-guidance.aspx> or contact the Council's CIL Officer.

#### Informative - protected species

Any slow worms present will be able to disperse into surrounding gardens by strimming the vegetation and removing the piles of building materials before the start of the hibernation period (generally mid to end of October).

**14/00037/FUL**

