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# Appeal Decision

Site visit made on 10 March 2015

**by Mark Dakeyne BA (Hons) MRTPI**

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

**Decision date: 24 March 2015**

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**Appeal Ref: APP/D1780/A/14/2228895**

**Horseshoe Bridge, Portswood, Southampton SO17 2NP**

- 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 S Poswall against the decision of Southampton City Council.
  - The application Ref 14/00481/OUT, dated 21 March 2014, was refused by notice dated 29 October 2014.
  - The development proposed is the construction of a five storey building to form 40 bed student accommodation.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The application was submitted in outline, with access, layout and scale to be determined at this stage. I have dealt with the appeal on that basis. For clarity I have used the description of development from the appeal form which refers to student accommodation.

## Main Issues

3. The main issues are:
  - (1) the effect of the development on the supply of employment land;
  - (2) whether the proposal would result in an acceptable living environment for future occupants, with particular reference to noise and safety; and,
  - (3) whether the proposal makes adequate provision for any necessary infrastructure and facilities arising from the development and would offset any adverse impacts.

## Reasons

### *Employment Land*

4. The site is safeguarded specifically for light industry and research use by Policy REI 11 of the City of Southampton Local Plan Review (LP). Policy CS 7 of the Southampton City Council Core Strategy (CS) is more general in safeguarding existing employment sites for employment use. Policy CS 7 states that, if a site is released from safeguarding, the requirement will be for a mix of uses to include suitable B1, B2 and/or B8 employment. The explanation to the policy recognises that a site may need to be redeveloped for both employment and other higher value uses to remain commercially viable. Given that the National Planning Policy Framework promotes flexible policies to accommodate

employment needs not anticipated in the Plan, I consider that Policy REI 11 of the LP is somewhat out of date in restricting development to narrowly defined employment uses only.

5. The small triangular shaped appeal site with an area of about 0.2 ha would not be large enough for a mix of uses. So the key test in respect of the first main issue, notwithstanding the terms of the policies, is whether there is a reasonable prospect of the site being used for employment purposes as set out in paragraph 22 of the Framework.
6. There have been a number of planning permissions for employment uses on the site over the years. However, despite marketing the site for office use none of the permissions have been taken up. That said, although I observed boards on Horseshoe Bridge for a 'new landmark office building', presumably for the appeal site, I am not aware of any other marketing information to demonstrate the efforts that have been made to sell or lease the site to an employment user or the nature of any interest. Moreover, the more recent permissions have existed during a period of recession when development has been more difficult to get off the ground. During the ongoing period of recovery, more interest in the site for employment would be anticipated. This is in the context of low vacancy rates in the city referred to by the Council; the site's good connections to the strategic road network; and the proximity to other employment uses, including those on Empress Road to the south-west.
7. Accordingly the proposal would have an unacceptable impact on the supply of employment land and would conflict with Policy CS 7 of the CS as it would lead to the loss of a safeguarded employment site. It has not been demonstrated that there is no reasonable prospect of the site being used for employment purposes. Loss of the site would make it more difficult for the business and industrial units that the area needs to be delivered. For the reasons given above, although there is conflict, Policy REI 11 of the LP should be given less weight.
8. The student development would be unlikely to prejudice the ability of nearby businesses to operate as there are no such uses immediately next to the site, Empress Road being separated by Horseshoe Bridge. Moreover, the nearest building on Empress Road is in B1 office use which would be compatible with the residential use.

### *Living Environment*

9. The site is sandwiched between the main railway route into Southampton and Thomas Lewis Way, the A335, which heads out of the city to junction 5 of the M27 motorway. When I visited the site mid-morning there was a steady flow of traffic on the A335 and passenger trains passed regularly. In addition there was additional traffic using Horseshoe Bridge above the site and the hum of a transformer on railway land about 4m from the site boundary. It would be likely that vehicle movements in particular would increase during peak periods.
10. There is no noise assessment before me, including potential mitigation measures such as attenuation of the building fabric. But based on what I saw and heard at the site visit I consider that the noise environment would not be acceptable for the proposed student accommodation, including any external sitting out areas. There is a distinction between the ability of residents and

office workers to tolerate noise, particularly as the former would expect a quieter environment during the hours of rest and sleep.

11. I note that the Inspector who considered the previous appeal<sup>1</sup> had the benefit of an acoustic report and found that it would be possible to insulate the interior of the building. But he was not convinced that the external space would provide an acceptable noise environment. I also note that the Council's Environmental Health Officer considers that occupants would need to keep their windows shut which is an indicator that the noise environment is poor.
12. Those walking or cycling to or from the site would use the short road providing access to the railway land. This route has a pavement on its northern side but there is no street lighting. Moreover, the access lacks natural surveillance as it is not a through-route and the vegetation on the embankments and change in levels largely shield those using it from nearby roads. There is an unlit lane which runs from the hammerhead of the access road towards St Denys Railway Station to the north. The lane is screened from Thomas Lewis Way above. It would appear to be a private road but access can be gained to the station platforms via the lane. This would be the shortest route to the station for those living in the flats. There is no other residential development along these routes or in other locations that look over the accesses or the site such as on Horseshoe Bridge.
13. The routes would not provide a safe route into and out of the flats, particularly in hours of darkness, due to their characteristics, particularly the lack of surveillance. Students, including females, returning to the accommodation late at night would be particularly vulnerable. I note that the area around Horseshoe Bridge is one which has been subject to crime and anti-social behaviour. There are reports of, amongst other things, assaults, prostitution and theft. The new development itself would provide some surveillance from windows looking over the access road. Security measures could be included within the design of the building to prevent unauthorised access. However, I do not consider that these measures would make for a suitably safe environment. Office workers would not normally need to access the site during the evening and would be less likely to walk or cycle. Therefore, the considerations in relation to a safe environment are not comparable.
14. The City Gateway student accommodation, which I saw on my site visit, is close to main roads but has much better natural surveillance and direct access onto the well-used Stoneham Way so would provide a safer living environment than the appeal proposal.
15. There are routes through residential areas to the north of Thomas Lewis Way which would provide a safer environment, including the main access to the railway station. Bus routes operate in this area. Provision could be made for improved pedestrian crossing facilities at the junction of Horseshoe Bridge and Thomas Lewis Way. There is housing over Horseshoe Bridge to the north-east. Therefore, the environment beyond the immediate surroundings of the appeal site would be acceptable. There would be no need to use Empress Road as an access route as there are more attractive alternatives once Thomas Lewis Way has been reached.

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<sup>1</sup> Appeal Decision ref: APP/D1780/A/06/2029628 dated 24 May 2007

16. However, I conclude that the proposal would result in an unacceptable living environment for future occupants, with particular reference to noise and safety. There would be conflict with Policy CS 13 of the CS as the development would not design out the risk of crime. In terms of the LP, Policies H 13, SDP 1, SDP 10 and SDP 16 would be breached as the development would not be suitably located, would unacceptably affect the safety of residents, would not provide safe and secure public routes and would be adversely affected by significant noise from existing noise-generating uses. These LP policies have a reasonable degree of consistency with the Framework and, therefore, should be given due weight.
17. The Framework's core planning principle of securing a good standard of amenity for all future occupiers of buildings would not be met. The development would not create a safe environment so the quality of life of the occupants would be undermined.

### *Infrastructure*

18. The Council's fifth reason for refusal refers to the lack of a planning obligation to offset the impacts of the development on transport, parking, carbon emissions, nature conservation and site and waste management. The appellant refers to the securing of planning obligations through the appeal process but no legal document under Section 106 of the Planning Act is before me.
19. I agree with the appellant that it is likely that some of these issues, such as limiting the use to student accommodation, travel planning and site and waste management, could be dealt with by conditions. Damage to the public highway is not normally within the scope of planning legislation. In respect of other requirements, I would comment as follows:

*Transport Contribution* – the provision of a pedestrian controlled crossing at the junction of Horseshoe Bridge and Thomas Lewis Way would be necessary (paragraph 16 refers). The appellant does not appear to dispute this requirement.

*Restrictions on parking permits* – the proposal includes provision for some 18 on-site parking spaces. The Council refer to the need to control on-street parking in the area. However, there is insufficient information before me about the parking that would be likely to be generated by a 40 student bedroom development or the impacts of the development in relation to on-street parking in the area. Therefore, the excluding occupants from applying for permits has not been shown to be necessary, even if such a course of action was possible through planning controls.

*Nature Conservation* – the requirement for a contribution to the Solent Disturbance Mitigation project appears to be justified by the need to reduce the impact of recreational activity from additional population on nearby designated sites. Again the appellant does not appear to dispute this requirement.

*Carbon Offset Fund* – the requirement to offset CO<sub>2</sub> emissions is set within Policy CS20. I have not been made aware of any reason why the requirement should not be met. Again the appellant does not appear to dispute this requirement.

20. The contributions to offsite highway works, nature conservation and carbon offsetting are necessary to make the proposed development acceptable in planning terms, directly related to the proposed development and fairly and reasonably related in scale to the development. In the absence of the said contributions the proposal does not make adequate provision for any necessary infrastructure and facilities arising from the development and would not offset any adverse impacts. There would be conflict with Policies CS 18, CS 20 and CS 25 of the CS as the development, without a safe crossing, would not promote active travel and access to public transport; would not make a contribution to the Carbon Offset Fund; and the necessary infrastructure, facilities and amenities would not be provided.

*Other Matters*

21. There are likely to be technical solutions with regard to dealing with the public sewer that crosses the site but these should be addressed through the Building Regulations and consultation with Southern Water rather than through the planning process. Surface water could be attenuated on the site so that it does not increase flows off site. In these respects I note that previous permissions have been granted on the site, notwithstanding the existence of the sewer and surface water issues. Based on the information before me the effects on the public sewer and surface water would not be reasons to dismiss the appeal.

*Conclusions*

22. The development would contribute to the supply of student housing in the city. The area is well served by public transport, including the nearby railway station. There is a cycleway along the River Itchen with its entrance close to the site. The development would make use of neglected previously-developed land. Permission exists for a five storey office building on the site so the scale of development would be acceptable. There is reference to the lack of a five year supply of deliverable sites under Policy CS 4 of the CS, although the Council consider there is a five year supply. However, even if there is no five year supply, the adverse impacts of the development would significantly and demonstrably outweigh the benefits, including those arising from the provision of student housing, when assessed against the policies of the Framework taken as a whole. The proposal would not represent sustainable development.
23. For the above reasons and having regard to all other matters raised the appeal should be dismissed.

*Mark Dakeyne*

INSPECTOR