
Appeal Decision

Site visit made on 14 September 2016

by Michael J Hetherington BSc(Hons) MA MRTPI MCIEEM

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

Decision date: 3 November 2016

Appeal Ref: APP/Z1775/W/16/3149926

Land at junction of Inhurst Road and London Road, Portsmouth, PO2 9JQ

- 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 Mr D Morley against the decision of Portsmouth City Council.
 - The application ref. 16/00055/PLAREG, dated 14 January 2016, was refused by notice dated 30 March 2016.
 - The development proposed is described as: retention of 3 no. 3-storey houses.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Portsmouth City Council against Mr D Morley. This application is the subject of a separate decision.

Background

3. The appeal site forms part of a larger site on the corner of London Road and Inhurst Road. This was the subject of a planning permission granted in outline in 2006 (with reserved matters approved in 2009) for the construction of a three-storey building to form a vehicle showroom with associated offices, refuse/cycle stores at ground floor level and six flats at upper floors (after the demolition of 218-222 London Road) and three three-storey houses facing Inhurst Road (after demolition of the existing garage block).
4. The appellant had suggested that the relevant permission was implemented by works undertaken in 2009. However, a number of pre-commencement conditions were not discharged. The Council therefore considers that the relevant permission has therefore expired and cannot now be relied upon. I have no reason to take a different view. The appellant states that the present application has been submitted to regularise the development of the three houses facing Inhurst Road.
5. At the time of my visit the development appeared substantially complete. A 'To Let' board was on display outside one of the units.

Main Issues

6. The main issues in this appeal are:
 - (a) whether the drawings that were submitted with the planning application are sufficiently adequate to enable the scheme to be considered;
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- (b) whether the scheme provides adequate living conditions for its occupiers;
- (c) the adequacy of the scheme's parking arrangements, with regard to the environment of the area and the amenity of local residents; and
- (d) the scheme's effect on the nature conservation significance of the Portsmouth Harbour and Chichester and Langstone Harbours Special Protection Areas (SPAs).

Reasons

Adequacy of Drawings

7. The drawings submitted with the application show the appeal scheme in the context of the larger previously-proposed development described above. The Council raises concern that these do not show the dwellings in their current context, notably the adjoining car garage/showroom on London Road which remains in place. Clearly, it would have been preferable for the application drawings to have been updated to show the site's present surroundings. However, the extent of the appeal site is denoted on the submitted 'red line' location plans (at scales of 1:500 and 1:1250). Bearing that in mind, it can easily be deduced from the other drawings which part of the relevant plans and elevations apply to the present scheme. If the development were otherwise acceptable, I therefore see no reason why a condition to accord with the approved plans could not be worded so as to apply to those elements within the red line site boundary.
8. Given that the building is already in place, it is also possible to appreciate the relationship with its surroundings on-site. It is noted that the scheme was at an advanced stage of development at the time that the planning application was being assessed by the Council. For these reasons, I conclude that the drawings submitted with the planning application are sufficiently adequate to enable the scheme to be considered.

Living Conditions

9. Policy PCS19 of The Portsmouth Plan: Portsmouth's Core Strategy (CS) seeks to apply minimum standards for internal floorspace. These are set out in the Housing Standards Supplementary Planning Document (SPD). However, a new system of housing standards commenced on 26 March 2015, following a Written Ministerial Statement. In the Council's view, the appeal scheme fails to satisfy this new Nationally Described Space Standard (NDSS). Specifically, concern is raised that the dwellings do not achieve the total 90 sqm that is required for a three-storey three-bedroom four-person dwelling (including internal storage space) and that they fail to provide at least one double (or twin) bedroom of at least 11.5 sqm. The Council considers that the gross internal area of each dwelling amounts to some 75 sq (excluding the internal garage) and the ground floor study indicated on the drawings in each house can reasonably be used as an additional bedroom.
10. The appellant comments that the scheme represents three two-bedroomed properties, stating that the ground floor study in each dwelling is not a bedroom. He adds that each house provides some 96-97 sqm gross internal area, which exceeds the 90 sqm minimum figure. However, I share the Council's view that it is not appropriate to include the integral garages when

assessing the overall size of the dwellings: the garages are intended to provide for car parking, as discussed below, and not as additional domestic space for the dwelling concerned. Given that the studies in each dwelling would be of an equivalent size to the smaller bedroom in each property, I agree with the Council that it is reasonable to consider the scheme as comprising three three-storey three-bedroom four-person dwellings. These would therefore fall short of the 90 sqm minimum that is set out in the NDSS.

11. Furthermore, as noted by the Council, the main bedroom (bedroom 1) in each dwelling is smaller than the 11.5 sqm minimum figure for a double (or twin) bedroom set out in the NDSS. The NDSS requires a dwelling with two or more bedspaces to have at least one double (or twin) bedroom of the size specified. Taking these factors together, I share the Council's view that the scheme does not accord with the NDSS.
12. It is accepted that the scheme's internal layout accords with the previous grant of planning permission. However, the NDSS came into effect before the present planning application was submitted and indeed before the start date of the development's construction. It is clearly material to the present appeal and, moreover, it reflects the core planning principle set out in the National Planning Policy Framework (the Framework) that planning should always seek to secure high quality design and a good standard of development for all existing and future occupiers of land and buildings.
13. The Council also raises a concern that the appeal scheme does not provide access to external private amenity space. However, CS policy PCS15 does not set specific requirements about the size or nature of external amenity space and moreover applies a flexible approach – for example in terms of specific site requirements. In this case, each of the dwellings contains a small area to the front with enough space to sit outside. On balance, I do not feel that it has been shown that this represents a materially harmful or adverse arrangement sufficient to conflict with policy PCS15. Nevertheless, as a result of the conflict with the Nationally Described Space Standard described above, I conclude that the scheme does not provide adequate living conditions for its occupiers.

Parking Arrangements

14. With reference to its Parking Standards and Transport Assessments SPD, the Council considers that the appeal scheme should provide five off-road parking spaces unless there is justification for a reduced level of provision. It notes that on-street parking in the site's vicinity is at a premium. In addition, it considers that the three integral garages are inadequate in size and objects to the lack of cycle parking provision within the development. It adds that the previously-permitted scheme proposed to make provision for cycle parking within the area that is now excluded from the appeal development.
15. The appellant states that the car parking arrangements within the scheme are the same as in the previously-approved development. He adds, and I agree, that the appeal site is well-placed in respect of alternatives to the private car, being close to a range of local services and public transport. Although there is local demand for on-street parking, much of Inhurst Road is free from waiting restrictions. Indeed, spaces were available at the time of my visit. Taking these factors together, I consider that while the scheme's vehicle parking arrangements do not accord with the SPD, it has not been demonstrated that

they would be likely to cause material harm to the environment of the area or the amenity of local residents.

16. In respect of cycle parking, it is clear that the provision shown on the application drawings does not fall within the appeal site. On-site provision is therefore required in line with relevant policies, including CS policy PCS23. Although space within the appeal site is limited, I see no reason why dedicated cycle parking spaces could not be accommodated. This could be the subject of a condition if the scheme was otherwise acceptable. Subject to that, I conclude that the scheme's parking arrangements would be adequate.

Special Protection Areas (SPAs)

17. The Portsmouth Harbour and Chichester and Langstone Harbours SPAs have been designated primarily for their importance for wintering wildfowl and waders. In accordance with the Conservation of Habitats and Species Regulations 2010, CS policy PCS13 recognises that before deciding to give permission for a development that is likely to have a significant effect on the SPAs, either alone or in combination with other plans or projects, it is necessary to make an appropriate assessment of the implications for the sites in view of their conservation objectives. While policy PCS13 refers to the need for a project-level Habitat Regulations Assessment (HRA) to be carried out in relevant cases, the policy approach to this matter has been carried forward, taking into account further research through the Solent Disturbance and Mitigation Project, into the Solent SPAs SPD which was approved in April 2014.
18. The evidence base identifies that development within a certain distance of the coast (5.6km) that increases population is likely to add to recreational pressure and therefore increase the level of disturbance and the resultant effect on the SPAs' conservation objectives. In order to address these concerns an interim mitigation scheme has been drawn up by local authorities along the Solent, including the Council. The scheme has been endorsed by Natural England and I am not aware of any substantive challenge to its underlying assumptions.
19. The appellant states that the need for SPA mitigation is recognised, and adds that 'a completed section 111 undertaking follows this appeal'. However, a copy of this agreement has not been submitted and I have seen no evidence that a contribution has been made. Furthermore, submission of a section 111 agreement would not in itself necessarily indicate that the required payment had been secured. If the scheme were otherwise acceptable, this is a matter upon which I would seek further information. At the time of considering the appeal application the Council stated that it was in the process of refunding planning obligations associated with permissions granted in 2006 and 2009.
20. In the absence of evidence that a mitigation package has been secured in respect of the present development, I am unable to conclude that the appeal scheme does not, either singly or in combination with other developments, have a significant adverse effect on the conservation objectives of the SPAs. This conflicts with the Solent SPAs SPD and with the objectives of policy PCS13.

Conclusion

21. I have concluded above that the drawings submitted with the planning application are sufficiently adequate to enable the scheme to be considered and that subject to a condition in respect of cycle parking the scheme's parking

arrangements would be adequate. However, my conclusions in respect of the conservation objectives of the SPAs and the living conditions of the scheme's occupiers represent serious failings in the environmental and social dimensions of sustainable development respectively. These are sufficient to significantly and demonstrably outweigh the scheme's benefits – notably in terms of adding to the local stock of housing. The appeal scheme does not therefore amount to sustainable development in terms of the Framework.

22. For these reasons, and having regard to all other matters raised, my overall conclusion is that the appeal should not succeed.

M J Hetherington

INSPECTOR