
Appeal Decisions

Site visit made on 25 April 2017

by H Porter BA(Hons) PGDip IHBC

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

Decision date: 12 May 2017

Appeal Ref: APP/Z1775/W/17/3168445

42, Victoria Road North, Central Southsea, Southsea PO5 1PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Lucy Whitehead against the decision of Portsmouth City Council.
 - The application Ref 16/00656/VOC, dated 22 April 2016, was refused by notice dated 11 July 2016.
 - The application sought planning permission for continued use of premises as nursery school, operating between 08:00 hours to 18:00 hours, with alteration of condition 2 (max 40 children) to allow max of 50 children without complying with a condition attached to planning permission Ref A*28700/AC, approved in July 1998.
 - The condition in dispute is No 3 of A*28700/AC which states that: 'the nursery hereby approved shall not accommodate more than 50 pre-school age children at any one time'.
 - The reason given for condition No 3 of A*28700/AC is: 'in order to control the use having regard to the amenities of the adjoining and nearby residents'.
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Decision

1. The appeal is dismissed.

Procedural matter

2. Within the above banner heading I have only included reference to condition 3 of application A*28700/AC. I note that the appellant has also sought to extend the opening hours beyond those set out in the description of development from the original 1990 planning permission (A*28700/AA). While the original and subsequent descriptions purport to contain the 'limitation' of operation between 08:00 hours and 18:00 hours, these have not been secured by a condition. As there is no condition to vary relating to opening times, I am unable to deal with this issue under this type of application and appeal. The matter of hours of operation, therefore, should be taken up by the Council and the appellant away from this appeal. I shall therefore deal with circumstances of the case within the existing opening hours, giving consideration to the effects of the proposed child number increase only.

Main Issues

3. The main issues in this case are whether the disputed condition is reasonable and necessary, having particular regard to the effect on the safe and efficient operation of the highway network in the vicinity of the appeal site and neighbours' living conditions.
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Reasons

Highway safety

4. The appeal relates to Rainbow Corner Nursery School, a pre-school childcare facility in Southsea, on the outskirts of Portsmouth city centre. The appeal site occupies a corner plot between Victoria Road North and Outram Road. Victoria Road North is a busy, heavily-trafficked route that runs towards the urban centre of Southsea, serving as a bus route and forming part of the wider strategic highway network. There is a bus stop located immediately outside the appeal site on Victoria Road North, where parking is generally restricted by double-yellow lines, with short stretches of 3-hour parking bays at intervals. The junction from Outram Road onto Victoria Road North has been blocked, except for bicycles, so that vehicle access to the nursery is via the one-way Outram Road. Double yellow lines also exist on the Outram Road side of this blocked junction as it rounds the corner into Havelock Road; and while Outram Road is relatively wide, it narrows to almost single-lane width as it turns into Havelock Road.
5. Outram Road, Havelock Road and the surrounding network of streets are residential in nature. In spite of occasional off-street driveways, the majority of the parking provision is on-street. At the time of my visit, on a week-day lunchtime, I observed the majority of parking bays within the vicinity of the appeal site to be occupied. While just a snapshot in time, it is apparent that there is significant local parking pressure. Paragraph 32 of the National Planning Policy Framework (the Framework) states that plans and decisions should take account of whether safe and suitable access to the site can be achieved for all people. The appeal proposal seeks to increase the maximum number of children from up to 50 to up to 70, which would be proportionally significant. The Parent Survey reveals that approximately half of the journeys are undertaken by car; and that the majority of parents park in Outram Road. Even though many parents who drive to the nursery would only be parking for relatively short periods, there is a high likelihood that the expanded capacity at the appeal site would create additional vehicle journeys to it, and an increased demand for local on-street parking.
6. Parking along Victoria Road North is contrary to nursery policy; however, the Parent Survey indicates that there are some occasions when parents park there. The parking spaces immediately outside the site are not in the nursery's control and, while they would provide a useful dropping off place, there is nothing to guarantee their availability. Even with the nursery entrance being on Outram Road, with such limited options to park locally, the appeal proposal would increase the risk of parents, potentially short of time and rushing to get to work or home, being prompted to park illegally.
7. Moreover, the stretch of double-yellow lines close to the nursery on Outram Road would offer a tempting opportunity to park. This could potentially restrict vehicular movement and flow along the one-way route into Havelock Road, as well as block cycles using the designated route in this location. In my judgement, the increase in child numbers would have an impact on local parking pressure, increasing the propensity for illegal parking, which on the corner of Havelock Road would have an associated impact on local highway capacity and congestion.
8. The Transport Statement identifies six accidents that have occurred in the immediate vicinity of the appeal site. Given that forward visibility through the

section of Victoria Road North is limited, any potential increase in illegal parking, could reduce visibility further and create an issue for pedestrians, cyclists or drivers.

9. As such, the appeal scheme would pose an unacceptable risk to the safe and efficient operation of the highway network in the vicinity of the appeal site. The proposed variation of condition 3 would therefore fail to achieve safe and suitable access to the site and would result in severe residual cumulative impacts, running contrary to paragraph 32 of the Framework. The proposal would also provide insufficient levels of parking for the particular circumstances of the development, thereby failing to meet the standards set out in the Parking Standards and Transport Assessments Supplementary Planning Document, July 2014.

Living conditions

10. Even within the existing operating hours, the proposed increase in child numbers would proportionally increase the number of vehicle journeys to the site. In light of the on-street parking pressures and the likely effect on the free-flow of traffic set out above, there would be an associated increase in noise from cars, as well as difficulty parking and local traffic delays. Given the residential nature of Outram Road and the surrounding streets, where the majority of residents' parking is on-street, the appeal proposal would have an unacceptable impact on the living conditions of nearby residents.
11. The proposed increase in child numbers would likely increase the time groups of children spend playing outside. Whether in larger groups, or for an extended part of the day, this would result in some increase in noise levels locally. However, considering the use of the facility within the extant opening times, the time of day when children are most likely to play outside, and the background noise generated along Victoria Road North, I do not consider such disturbance would be materially harmful. A lack of harm in this regard, however, does not alter the harm identified in relation to traffic noise and disruption. Overall, therefore, the proposed variation of condition 3 would also be contrary to Policy PCS23 of The Portsmouth Plan (Portsmouth's Core Strategy), adopted 24 January 2012, which seeks to ensure protection of amenity and provision of a good standard of living environment for neighbouring and local occupiers. The proposal would also conflict with the core planning principles of the Framework, in relation to securing a good standard of amenity for all existing and future occupants of land and buildings.

Other matters

12. I have taken into consideration the need for nursery places locally, the statutory requirements, and that an increase in capacity would facilitate a commitment to increasing funded childcare hours. I also note that the increase could facilitate a more competitive business. However, I do not find these benefits sufficient to outweigh the harm identified above. The appellant has referred to an 85-place nursery school located close to the appeal site, on a busy road with no parking provision, and various others that operate with limited parking on or off-site. I am unaware of the planning considerations or specific highway circumstances at the nurseries listed. In any event, it is owing to the site-specific circumstances at the appeal site that I find harm would result. I therefore do not find there is a useful precedent for the appeal scheme, which has been decided on its own merits.

13. The appeal site lies within the Campbell Road Conservation Area. Given the nature of the appeal proposal, the character and appearance of the Conservation Area would be preserved. A lack of harm in relation to the designated heritage asset, however, does not alter my overall conclusion.

Conclusion

14. For the reasons given above, I conclude that the variation of the disputed condition 3 would conflict with the policies within the development plan and Framework taken as a whole. Therefore, the appeal should be dismissed.

H Porter

INSPECTOR