The Planning Inspectorate

Appeal Decision

Site visit made on 2 May 2017

by JP Roberts BSc(Hons), LLB(Hons), MRTPI

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

Decision date: 16 May 2017

Appeal Ref: APP/Z1775/W/16/3165617
Land adjoining 3 Harold Road, Southsea, Portsmouth, Hampshire PO4 0JW

- 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 Steve Williams against the decision of Portsmouth City Council.
- The application Ref 16/00309/FUL, dated 21 December 2015, was refused by notice dated 26 May 2016.
- The development proposed is a new end-of-terrace, two-storey, 2 bedroom dwelling.

Decision

1. The appeal is allowed and planning permission is granted for a new end-of-terrace, two-storey, 2 bedroom dwelling on land adjoining 3 Harold Road, Southsea, Portsmouth, Hampshire PO4 0JW in accordance with the terms of the application, Ref16/00309/FUL, dated 21 December 2015, subject to the conditions set out in the Annex to this decision.

Procedural matter

2. The Council has confirmed that the appellant has entered into a formal agreement under s.111 of the Local Government Act 1972 to mitigate the effect of the proposal on the Portsmouth Harbour and Chichester and Langstone Special Protection Areas (SPAs), in accordance with the Solent SPA Supplementary Planning Document. I am therefore satisfied that the proposal would have no adverse effect on the SPAs, and need deal with this issue no further.

Main Issue

3. The main issues are:

   i) the effect of the proposal on the character and appearance of the surrounding residential area, and

   ii) the effect of the proposal on the living conditions of the occupiers of 3 Harold Road, with particular regard to outlook and light.

Reasons

Character and appearance

4. The appeal site is occupied by a garage and hardstanding lying between the side of a terrace of two-storey residential properties, and the rear projection of a long end-of-terrace building at 151 Albert Road which lies on the corner with

Harold Road. The gap in the building line provides views over nondescript flat-roofed additions to buildings further along Albert Road. Unsightly rubbish is also stored in view of Harold Road.

5. The proposed dwelling would only be slightly narrower than the dwellings in the adjacent terrace, and in my view that smaller width would be virtually imperceptible and would not look out of place. Otherwise the new dwelling would appear almost identical to the others in the terrace, and would fit in satisfactorily in the street scene.

6. The area is one of fairly high density development, where buildings are close to one another. There would remain a gap between the side of the new dwelling and the rear of the building to 151 Albert Road, and so, in the context of the area, it would not look cramped or squeezed into the plot. It would also benefit the appearance of the street by screening the lacklustre buildings to the rear, and by reducing the scope for fly-tipping and unsightly rubbish to accumulate.

7. Accordingly, I find that the proposal would be well designed and would not result in material harm to the character and appearance of the surrounding area, or conflict with Policy BCS23 of the Portsmouth Local Plan (LP), which deals with design and conservation.

Living conditions

8. The neighbouring terraced house has rear facing windows in the part of the house which abuts the boundary with the appeal site. The existing garage projects well to the rear of the ground floor window in the main rear wall of 3 Harold Road, and is likely to have a dominant effect on the outlook from that window. Although the Council says that the main part of the proposed dwelling would not be flush with the established rear elevations, it would only extend very slightly beyond the rear windows in the main wall of No 3, by less than half a metre, which would not have a harmful effect on outlook, sense of enclosure or light.

9. A more rearward element would continue of a further 2.5m at ground floor level and 1.9m at first floor level, offset from the boundary by somewhat over 1m. Whilst this rearward part would impinge on the outlook from the first floor window in 3 Harold Road, the combination of the limited depth of the rearward projection, its offset position from the boundary, and the use of a hipped roof, at a lower level than that of the main roof would ensure that the outlook from the first floor window would be satisfactory. The outlook from the ground floor window would, in my view be improved as a result of removing the garage on the boundary.

10. I have not been referred to any adopted technical guidance in relation to extensions. The appellant points out that the proposal would not extend to a point which crosses a line drawn at 45 degrees from the centre point of the affected first floor window and that the extension would be more than 1m from within a 60 degree angle taken from the centre of the ground floor window. The 45 degree guideline is often used as a measure of the acceptability of extensions in terms of their impact on outlook and light, and although it is not one which the Council uses, it reinforces my conclusion on this issue that the proposal would not result in material harm to the living conditions of the occupiers of 3 Harold Road with regard to outlook and light. Nor would it

conflict with LP Policy BCS23, which includes a criterion that development should ensure the protection of amenity and the provision of a good standard of living environment for neighbouring and local occupiers as well as for future residents and users of the development.

Other matters

11. I have had regard to other concerns raised from the adjoining neighbours at No 3 regarding noise, fumes, parking, highway safety, sewage disposal, impacts on health and disturbance during construction. I have also taken into account Article 8, and Article 1 of the First Protocol of the Human Rights Act 1998, which respectively deal with the right to a private and family life and the right to property. However, these are not absolute rights, and they have to be balanced against the right of the developer to use his property. Moreover, in this case, the public interest in securing housing needed for the area is an overriding consideration.

Conditions

12. The Council has suggested a number of conditions which I have considered in the light of national guidance.

13. A condition to require the development to be carried out in accordance with the approved plans is needed to achieve certainty. In view of the position of the site close to a busy main road, a condition to ensure that occupiers are protected from traffic noise and that from nearby licenced premises is necessary to protect their living conditions. Conditions relating to contaminated land are appropriate given the unknown use history of the site and the sensitivity of the occupiers. Conditions relating to bicycle and refuse storage are needed in the interests respectively of promoting travel other than by car and appearance, although I have amended the Council's suggested condition to require details of bicycle storage to be submitted because the submitted details are merely indicative.

14. The Council has suggested conditions relating to energy and water efficiency, which I consider to be necessary to comply with LP Policy PCS15, insofar as the requirements are compatible with Government policy expressed in the Written Ministerial Statement of 12 September 2014. A condition removing permitted development rights is justified in the exceptional circumstances of the small size of the site, and its closeness to adjacent buildings.

Conclusions

15. For the reasons given above, I conclude that the appeal should be allowed.

JP Roberts

INSPECTOR

ANNEX

CONDITIONS

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: refs: RB/SW/226/15 (1 of 2) and RB/SW/226/15 (2 of 2), except in respect of the refuse and bicycle storage facilities, and with the "appearance" section of the submitted Design and Access Statement.

3) Construction work shall not take place until a scheme for protecting the proposed dwelling from noise from vehicular and pedestrian traffic on Albert Road and Harold Road shall have been submitted to and approved in writing by the local planning authority. All works which form part of the approved scheme shall be completed before the dwelling is occupied and thereafter they shall be retained.

4) No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the local planning authority before development commences or within such extended period as may be agreed with the local planning authority:

   a) A desk study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 (CLR2:1994 Guidance on preliminary site inspection of contaminated land) and CLR 3:1994 Documentary research on industrial sites) and BS10175:2011+A1:2013 – Investigation of potentially contaminated sites – Code of Practice. The report should contain a conceptual model;

      and unless otherwise agreed in writing by the local planning authority,

   b) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk study in accordance with BS10175:2011+A1:2013; the report should refine the conceptual model of the site and state whether the site is suitable for the proposed end-use or will be made so by remediation;

      and, unless otherwise agreed in writing by the local planning authority,

   c) A detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such a scheme shall include the nomination of a competent person to oversee the implementation of the works.

5) The development hereby permitted shall not be occupied/brought into use until there has been submitted to and approved in writing by the local planning authority verification by the competent person approved under the provisions of condition 4 (c) that any remediation scheme required and approved under the provisions of condition 4(c) has been implemented fully in accordance with the approved details (unless varied with the written agreement of the local planning authority in advance of

implementation). Unless otherwise agreed in writing by the local planning authority such verification shall comprise (but not be limited to):

i) as built drawings of the implemented scheme;

ii) photographs of the remediation works in progress; and

iii) certificates demonstrating that imported and/or material left in situ is free of contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under condition 4(c).

6) Prior to the first occupation of the dwelling hereby approved, secure and waterproof bicycle storage facilities shall be provided in accordance with details which shall have been previously submitted to and approved in writing by the local planning authority. The approved facilities shall be retained for the storage of bicycles at all times.

7) The development hereby permitted shall not be occupied until written documentary evidence has been submitted to, and approved in writing by, the local planning authority, proving that the development has:

   a) achieved a minimum of a 19% improvement in the dwelling emission rate over a target emission rate, as defined in The Building Regulations for England Approved Document L1a: Conservation of Fuel and Power in New Dwellings (2013 edition) and such evidence shall be in the form of a Design Stage Standard Assessment Procedure (SAP) Assessment, produced by an accredited energy assessor; and

   b) achieved a maximum water use of 110 litres per person per day as defined in paragraph 36(2)(b) of the Building Regulations 2010 (as amended) and such evidence shall be in the form of a post-construction stage water efficiency calculator.

8) Notwithstanding the submitted details, prior to the first occupation of the dwelling hereby approved, facilities for the storage of refuse and recyclable materials shall be provided in accordance with a scheme which shall have been submitted to and approved in writing by the local planning authority. The storage facilities shall thereafter be retained for the storage of refuse at all times.

9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no building, structure, addition or alteration shall be erected or carried out other than as expressly authorised by this permission.