



Appeal Decision

Site visit made on 22 May 2019

by J Evans BA(Hons) AssocRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2019

Appeal Ref: APP/N1160/W/18/3215620

135 Alexandra Road, Mutley, Plymouth PL4 7EG

- 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 I Layford of St Augustines (Ply) Ltd against the decision of Plymouth City Council.
 - The application Ref 18/00667/FUL, dated 17 April 2018, was refused by notice dated 10 August 2018.
 - The development proposed is described as the change of use to allow hotel (Use Class C1) in addition to the consented student use.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use to allow hotel (Use Class C1) in addition to the consented student use at 135 Alexandra Road, Mutley, Plymouth PL4 7EG in accordance with the terms of the application, Ref 18/00667/FUL, dated 17 April 2018, subject to the conditions contained within the attached Schedule.

Procedural Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published on 19 February 2019. The revisions do not alter the national policy approach in respect of the issues raised in this appeal and therefore the main parties have not been prejudiced by the updates to this document.
3. In March 2019 since the submission of the appeal, the Council has adopted the Plymouth and South West Devon Joint Local Plan 2014-2034 (the JLP). The reasons for refusal reference the policies of the then emerging JLP as they were at that time. The main parties were invited to provide further comments on the change in status of the JLP. The former development plan policies, which were referred to within the reasons for refusal are no longer extant.
4. Reference has been made in the supporting paperwork from both of the main parties that during the processing of the planning application it was agreed that the C1 hotel use would be limited to up to 33 of the 85 rooms in the appeal building at ground and first floor level only. I also have a copy of the re-advertisement of the planning application dated 30 July 2018 utilising the same description as on the application form, but referring in its reasoning for re-advertisement to '*a reduced level of hotel occupancy*'. The appellant's Transport Appeal Statement also refers to an agreement with the Council that the C1 hotel use would be limited to 23 rooms on the first floor and 10 of the 23 rooms on the second floor. However, this breakdown of the C1 hotel use is not detailed on the submitted plans and in the appellant's appeal form no change in the description of the development is highlighted. There is also no

reference to a limitation in the hotel occupancy in the appeal form. As a consequence, as my starting point I am required to assess the proposal on the basis of a dual use across the entirety of the existing building, with the option to limit the number of rooms and the location of the C1 use, via a condition if this would be considered necessary.

Applications for costs

5. An application for costs was made by Mr I Layford of St Augustines (Ply) Ltd against Plymouth City Council. This application is the subject of a separate Decision.

Background

6. The appeal site relates to the existing six storey building St Augustine House and its associated parking area which obtained planning permission in April 2010¹. A condition attached to this decision notice restricts the occupancy of the building to students in full time education.

Main Issues

7. The main issues are:
 - the safe and efficient operation of the highway network in the vicinity of the appeal site in respect of parking provision, with regard to local capacity, highway safety and the displacement of existing residents on-street parking;
 - the effects from the proposed dual use on student welfare; and
 - whether the hotel use would be of a suitable standard and in an appropriate location.

Reasons

The safe and efficient operation of the highway network

8. Policy DEV29² of the JLP requires that development proposals should, amongst other matters and where appropriate, consider the impact of development on the wider transport network; provide safe and satisfactory traffic movement and vehicular access to and within the site; and ensure sufficient provision and management of car parking in order to protect the amenity of surrounding residential areas and ensure safety of the highway network. The policy also supports the incorporation of travel planning, which helps to maximise the use of sustainable transport in relation to the travel demands generated by the development and limit the impact of the development on the road network.
9. Reference is also made by both parties to Chapter 8: Parking Standards and Travel Plans of the Development Guidelines Supplementary Planning Document First Review (2013) (the DGSPD). The DGSPD does not form part of the development plan and was produced to support previous development plan policy and not the recently adopted JLP. Nonetheless, the document provides useful guidelines on the approach to highway safety matters across Plymouth,

¹ 09/00005/FUL - Redevelopment with a 6 storey building to provide 85 units of student accommodation including a wardens flat and ground floor flats for disabled persons

² Policy DEV31 of the emerging JLP was referred to in the decision notice, the adopted policy was renumbered as policy DEV29 in the adopted JLP.

and I view the document as a material consideration for this appeal albeit of limited weight.

10. The appeal site at present contains 6 spaces and no additional car parking would be provided through the appeal proposal. Whilst I acknowledge the appellant's point that the current parking provision falls considerably below the maximum standards in the DGSPD for student accommodation, this level of provision was agreed as acceptable to the Council at the time the existing use of the appeal building was approved. I also take on board that this level of parking provision was associated with active encouragement for students enrolling in courses at Plymouth University to use other means of transport other than the private motor vehicle. An approach which appears to have been consistent across the city at that time to encourage car free student accommodation.
11. I do accept however that, in reality there would appear to be occupants of the student accommodation at the appeal site who at present do use private motor vehicles, and this does result in some overspill parking on nearby streets, a point which is raised by interested parties to the appeal. Notwithstanding this, I do not agree with the appellant that the level of parking provision that presently exists with the current use, by default supports a similar approach to the proposed hotel use, as it represented a specific approach to student accommodation at that time.
12. Consequently, I am under no doubt that traffic movements and parking demand would increase as a result of the development, even if the appeal development is limited to up to 33 rooms for a C1 hotel use. I am also of the view that there would be resultant pressure from this likely increase for parking off site.
13. It therefore follows, in accordance with policy DEV29 of the JLP and the DGSPD to quantify this likely increase. Then to establish if such an increase in movements and demand would place undue pressure on the capacity of the nearby roads. If so, what would be the resultant effects on the safety of the highway network and the amenities of existing residents as a result of displacement beyond the present consented position. Thereafter, whether these effects, are so significant to justify a refusal, or could be sufficiently managed, such as through conditions and a Travel Plan.
14. It has to be acknowledged that the figures presented in the DGSPD are maximum requirements and there is no minimum, and that paragraph 8.3.7 of the DGSPD stated that the maximum parking standards will be reviewed every five years, and the current standards are now six years old. They nevertheless provide a reasonable basis to estimate the likely increase for parking demand arising from the proposal.
15. With the up to 33 room C1 hotel use, the DGSPD would require as a maximum requirement one space per room. As the remainder of the building would remain in student use, and 6 spaces are already allocated for use of all 85 rooms as student accommodation, even if I accept no opportunity to use these existing spaces with the proposed use, the absolute maximum parking requirements, with all 33 rooms in use for a hotel, would be for 33 vehicles.
16. With the entire 85 rooms available for a C1 hotel use, the DGSPD would require one space per room, which would equate to a maximum of 85 parking spaces,

not accounting for the 6 that already exist and the existing consented use at the site.

17. As part of the appellant's Transport Appeal Statement, car parking surveys have been provided that indicate there is available on street spaces at peak periods, for example a survey of street car parking availability on 2 October 2018 between 18:00 to 19:00 outlined 79 spaces where available on streets within what the appellant refers to as an acceptable walking distance of up to 800 metres (m) to the appeal site. The referenced acceptable walking distance is obtained from the Chartered Institute of Highways and Transportation document entitled 'Providing for Journeys on Foot' (2000) (the PJF).
18. I do consider there is some merit in the Council's point that a hotel user who has driven to the appeal site would be unlikely to accept an 800m parking distance from the accommodation, whether this is on street parking or in a car park. On the other hand, I acknowledge the appellant's point that there are drop off facilities at the site that would negate the need to carry luggage over this distance. Nonetheless, I am still of a view that 800m, is not particularly convenient or desirable for a hotel use, taking into account that the PJF refers to a desirable walking distance of 400m.
19. However, the appellant's car parking survey nonetheless indicates that there were 49 available spaces within 400m of the appeal site. This therefore leads me to conclude that, in applying the maximum parking standards of the DGSPD to establish a worst case quantum increase in car parking requirements, that even at the maximum level of these standards, a use of the building with up to 33 rooms in C1 hotel use would fall below the identified capacity on streets within 400m of the appeal site, being a desirable distance away as outlined in the PJF. Whereas a proposal for the dual use of the entire building, would exceed that capacity.
20. I therefore have a number of concerns with regard to the potential use of all of 85 rooms in the appeal building for a dual student accommodation/ C1 hotel use and the resultant effect this dual use would have on overspill parking on the highway, the impediment of free flowing traffic and displacement of existing residents on-street parking. I consider that hotel users would predominately want to park a desirable distance away from the hotel, and on that basis, a C1 hotel use of potentially all of the 85 rooms in the building, would lead to conflict with existing residents, displacement of parking and vehicles impeding the traffic movement in search of an available space. Without satisfactory evidence to conclude otherwise, I find that the development, without limitation on the C1 hotel use, would conflict with policy DEV29 of the JLP and the DGSPD.
21. However, the appellant has put forward that the C1 hotel use could be limited to up to a maximum of 33 rooms. As I have identified, the quantum of on street parking demand associated with this lower level use, even if applying the DGSPD maximum standards, would fall short of the identified capacity. Further, the effects of the development could also be mitigated and managed through a Travel Plan that can be secured via a condition. I note an April 2018 version of a Travel Plan has been submitted by the appellant which provides a number of detail measures to encourage students and hotel visitors to use modes of transport other than the private car, however this relates to the use of all of the 85 rooms for a C1 hotel use, and therefore a revised Travel Plan would be

required. On this basis, I am satisfied that the appeal development would have a limited effect on displacement as a result of overspill parking demand and the available on street capacity. Further, due to these limited effects, the development would therefore be unlikely to disrupt the free flow of traffic and highway safety.

22. As a consequence, I conclude that subject to the imposition of conditions limiting a maximum use of up to 33 rooms of the appeal building to a C1 hotel use and the submission and implementation of a Travel Plan reflecting this, the development would have an acceptable effect on highway safety in respect of parking provision on and in the vicinity of the site, with regard to local capacity, highway safety and displacement of existing residents on-street parking. The development would as a result accord with policy DEV29 of the JLP and the DGSPD. The proposal would also align with paragraph 109 of the Framework which explains that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Effect on student welfare

23. Policy DEV1 of the JLP requires development proposals to safeguard the health and the amenity of local communities. To achieve this objective, the policy, amongst other matters as appropriate, ensures that new development provides for satisfactory daylight, sunlight, outlook, privacy and the protection from noise disturbance for both new and existing residents, workers and visitors; and are designed to be accessible to all people, including people with disabilities or for whose mobility is impaired by other circumstances.
24. I appreciate the points raised in the Planning Officer's Report regarding the differing needs between the two uses, such as the short-term arrangements for hotel occupiers and that students would desire safe and secure environments to live, study and socialise amongst their peers. I also acknowledge that disruption could occur as a result of the likely frequent changes of occupancy of the C1 hotel use, and that such a continual change could disrupt a safe and secure environment for students. Whilst I note the suggestion that noise and disturbance arising from the C1 hotel use could become an issue, I am not convinced that a C1 hotel use would be likely to result in such adverse effects beyond the existing use, and I have limited substantive evidence to support the Council's view in this regard.
25. Nonetheless, I consider that the concerns outlined above could be appropriately controlled through an updated management plan of the premises and the limitations of the up to 33 rooms C1 hotel use to specified areas of the ground floor and part of the first floor as outlined in the appellant's submissions, via conditions.
26. This would provide the C1 hotel and student uses to be focused to specific areas of the building. This ability to manage and focus the location of the two uses would to my mind address the concerns about disruption and the provision of a safe and secure environment for students. Through the management of the premises, students, who would inevitably be on longer contracts could have the opportunity to select their accommodation and the proximity to the specified hotel areas in the building, thereby they would have a choice about where they are located and would be aware of the

circumstances in advance. Without specifying certain areas within the building for the C1 hotel use, this could result in the risk of the hotel and student uses sporadically occurring throughout the entirety of the building, whereby the concerns expressed by the Council about a safe and secure environment would have some substance. However, as outlined above a condition specifying the areas for hotel use and the management of the premises would address this concern.

27. I also acknowledge the comments raised in the Planning Officer's Report that the proposal could deter students with restrictive accessibility from choosing this accommodation. However, from the information before me, it would appear that all levels of the building are accessible to users with restrictive mobility and each flat has a similar floor area and layout. Thereby, I am not convinced that a condition allowing for a C1 hotel use on the ground floor would necessarily deter students with restrictive mobility from the accommodation.
28. Whilst I note the points raised by the Council regarding the suggested reasons for the recent low occupancy levels at the site and the influences on demand for student accommodation across the city, I do not consider these points are of particular relevance to the main issue before me, that being the interaction between the two uses.
29. I also note the reference to concerns expressed by the University of Plymouth at liaison meetings with Council officers regarding possible welfare issues arising from the proposal. However, I have not been provided with the detail of what these concerns are, through the appeal submissions.
30. As a consequence of my findings above, I consider that the proposal would accord with policy DEV1 of the JLP, subject to conditions requiring an updated management plan and limiting the C1 hotel use to the ground and first floor levels of the building. For similar reasons, I also conclude that the proposal would align with paragraph 127 f) of the Framework which requires development to ensure that it creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
31. Of the other policies listed in the reasons for refusal on this main issue, I do not consider they are of particular relevance to the development and the main issue before me, for the reasons I have identified as follows.
32. Policy SPT2 applies principles of sustainable linked neighbourhoods and sustainable rural communities to guide how development and growth takes place. The policy does not make reference to matters of relevance to the main issue before me, being that of student welfare in association with a proposed dual use. I find no conflict with this policy as a result of the development.
33. Policy DEV10 refers to the delivery of high quality housing. It does make any specific reference to hotel uses or student accommodation. I find no conflict with this policy.

34. Policy DEV11 relates to Houses in Multiple Occupation in the Plymouth Article 4 Direction Area, as the development does not relate to Houses in Multiple Occupation, this policy is not of relevance.
35. Policy DEV12 concerns the provision of Purpose Built Student Accommodation (PBSA) in the Plymouth Policy Area, whilst I question whether the policy is of relevance to the proposal before me, as it does not relate to the provision of PBSA, I nonetheless do not find any conflict with policy. I also note sub policy DEV12. 9. Which requires that all proposals are future proofed in terms of design to support potential alternative uses as appropriate, which in principle, provides support for a dual use of the building.
36. Policy DEV20 relates to place shaping and the quality of the built environment. The policy requires development proposals to meet good standards of design, through a range of matters. However, from my review of the wording in this policy, I do not consider it is relevant to matters of the effect of development on student welfare. The development would not conflict with this policy.
37. The decision notice also refers paragraphs 61 of the Framework. I do not consider paragraph 61 is of relevance to the scheme as it relates to plan making rather than decision making.
38. To conclude on this main issue, for the reasons identified above, there would be no conflict resulting from the development with policy DEV1 of the JLP and paragraph 127 f) of the Framework, subject to the implementation of conditions limiting the C1 hotel use to the ground and first floor levels and to require an updated management plan for the building. I also find no conflict with policies SPT2, DEV10, DEV11, DEV12 and DEV20 of the JLP and paragraph 61 of the Framework for the reasons I have outlined.

Standard and Location

39. The Council have referred to policy PLY21 of the JLP which provides that support will be given for proposals which protect and deliver growth for Plymouth's visitor economy in its core tourism area. The policy explains that this area includes the waterfront stretching from Sutton Harbour/The Barbican to Royal William Yard, including the Hoe and Millbay as well as the City Centre. The policy outlines a number of specific provisions to deliver the aims of the policy.
40. The Council have also referred to the 'Plymouth Hotel Market Study' (2014) (the PHMS) which was developed in support of the emerging policies of the JLP, prior to its adoption. The document does not form part of the development plan and as a result is not afforded significant weight in the decision-making process, but nonetheless provides a useful background to the role of the visitor economy in Plymouth and the opportunities that exist.
41. The PHMS identifies market opportunities for higher quality accommodation in the city and outlines that this opportunity is not being met by the current tourism accommodation offer. The PHMS identifies ideal site characteristics for such an offer.
42. The appeal site is located outside of the area referred to in policy PLY21 of the JLP as the core tourism area. The policy does not preclude tourism development outside of the specific provisions and outside of the core tourism area, subject to the protection and delivery of growth for Plymouth's visitor

economy within it. However, I do not have any robust evidence or arguments before me to indicate how the appeal development would prejudice these objectives. I also find, for similar reasons, the proposal also would not conflict with Strategic Objective SO3 which relates to delivering growth in Plymouth's City Centre and Waterfront Growth Area, again an area that the appeal site is located outside of.

43. I also have no reason to disagree with the conclusions of the PHMS, the role of which as identified in its introduction being to provide an overview of the demand, supply and potential for hotel accommodation in Plymouth. However, it is not part of the development plan and I do not read it as a closed list or criteria, it provides the evidence for the permissive emphasis with policies PLY21 and SO3 of the JLP. Any perceived conflict with PHMS would not materially outweigh the conclusions I have reached on this main issue when assessed against the development plan.
44. As the appeal site is located well within the city with good links to the range of services and facilities the city offers. I therefore find that the appeal development is in an appropriate location.
45. I am also of the view that the standard of accommodation in terms of its size and facilities for a C1 hotel use is not untypical of what you would find elsewhere. The accommodation appears to adequately serve existing student needs, who are on longer letting periods than a typical C1 hotel use, I therefore do not consider that the standard of accommodation is unacceptable, and I have no good reason in terms of the development plan or material considerations, to require the standard of the accommodation to be at a higher level than proposed.
46. For the reasons identified above, I conclude that the location and standard of the development would not conflict with Policies SO3 and PLY21 of the JLP. I also do not find conflict with paragraph 127 of the Framework with regard to the standard of the accommodation.

Conditions

47. The Council through their Statement of Case sought that in the circumstance where I was minded to allow the appeal, to obtain their comments on suggested conditions. I wrote to the Council on this matter, and a list of suggested conditions and informatives were subsequently provided. The Council's response was thereafter provided to the appellant for consideration. No further comments were received from the appellant.
48. In considering the conditions to be applied, I have had regard to those suggested by the Council and the advice in the Planning Practice Guidance.
49. In addition to the standard time limit condition, for the avoidance of doubt it is necessary that there is a condition requiring that the development is carried out in accordance with the approved plans.
50. Conditions specifying the number of rooms to be used for the C1 hotel use and requiring the submission and implementation of a Travel Plan are both necessary in the interests of highway safety and the living environments of existing occupiers in nearby streets. A condition for parking and cycle provision is also necessary in the interests of highway safety.

51. Conditions limiting the use of the C1 hotel accommodation to the ground and first floors and an updated management plan are necessary in the interests of the welfare of students occupying the building.
52. I have re-imposed a condition with regard to obscure glazing on the west elevation of the stairwell towers in the interests of the living conditions of existing occupiers. I have also re-imposed a condition removing permitted development rights concerning the provision of plant or machinery on or directly adjacent to the fourth floor roof garden in the interests of the living conditions of existing and future occupiers.

Conclusion

53. For the reasons given above, having regard to all matters raised, the appeal is allowed.

J Evans

INSPECTOR

SCHEDULE OF 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:
 - L01.01 Rev 00 (21.02.18)
 - 2745/02 - Proposed First and Second Floor Plan
 - 2745/03 Rev A - Proposed Third and Fourth Floor Plans
 - 2745/04 Rev A - Proposed Fifth Floor and Roof Plans
 - 2745/05 Rev A - South and East Elevations
 - 2745/06 Rev A - Proposed North and West Elevations
 - 17042018 - Ground Floor Plan
3. The units hereby approved shall only be occupied by students in full time occupation or, with regard to up to 33 rooms (23 at ground floor level and 10 at first floor level), for a hotel use only and for no other purposes whatsoever, (including those falling within Class C1 of the Schedule to the Town and Country Planning (Use Classes) Order, 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
4. Prior to the first occupation of the development hereby permitted, details of the manner in which the dual use (student accommodation/ Class C1 hotel use) of the accommodation is to be managed (including possible on-site management) shall be submitted and approved in writing by the local planning authority. The accommodation shall be run in accordance with the approved details from the commencement of the use.
5. Prior to the first occupation of the development hereby permitted a Travel Plan shall be submitted to and approved in writing by the local planning authority. The Travel Plan shall include measures to reduce reliance on the private car, a timetable for implementation and provisions for monitoring and review. The measures contained within the approved Travel Plan shall be implemented in accordance with the agreed timetable and retained thereafter.
6. The existing parking spaces and relocated bike store shown on Drawing No. 17042018 - Ground Floor Plan; shall be provided and shall not be used for any purpose other than the parking of vehicles and bikes in connection with the approved development.
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any statutory instrument revoking and re-enacting that Order with or without modification), the windows in the west elevation of the stairwell towers at all floor levels shall at all times be obscure glazed and non-openable.
8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any statutory instrument revoking and re-enacting that Order with or without modification), no plant or machinery shall be installed or provided on or directly adjacent to the fourth floor roof garden without the prior consent in writing of the local planning authority.