
Appeal Decision

Site visit made on 11 February 2020

by Nick Fagan BSc (Hons) DipTP MRTPI

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

Decision date: 26th February 2020

Appeal Ref: APP/N1160/W/19/3233602

101 Lawrence Road, Plymouth, Devon PL9 9SJ

- 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 Verto Homes Ltd against the decision of Plymouth City Council.
 - The application Ref 18/00793/FUL, dated 30 April 2018, was refused by notice dated 14 February 2019.
 - The development proposed is demolition of existing building and erection of new build comprising of 8 residential apartments (Class C3) and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant pointed out in its submissions that the Council's decision notice did not list the correct drawings (plans, sections and elevations of the proposed building) that it actually considered when determining the application. I requested clarification of this via the submission of a statement of common ground between the main parties. This was submitted on 25 February. It confirms the drawings on which the Council determined the application.
3. They show that there would be a total of three Historic Interpretation Panels (HIPs – see below) facing the public space at ground floor level, two either side of the entrance to the flats on the north elevation and one on the sea-facing west elevation. They also show that there would be public realm improvements on the space in front of the north elevation by way of a public bench, raised planter, cycle hoops and a wayfinding sign to the South West Coast Path.

Main Issue

4. The main issue is whether the design of the proposed building would be acceptable, particularly in terms of the ground floor frontages.

Reasons

5. The site is situated in a prominent position at the end of the Mount Batten peninsula next to the turning circle, bus stop and car park and facing onto the Mount Batten breakwater and Plymouth Sound. There are clear views of Plymouth Hoe and the Barbican from here.
6. The site directly abuts a vertical cliff face. It has a footprint of approximately 780m². It rises from a road level of around 4m AOD to about 6m AOD on its southern boundary where it abuts the South West Coast Path (SWCP), which

- risers up steps to the east to the cliff top amenity area, which is the setting for the historic Mount Batten Artillery tower (Grade II* listed building erected in the 1660s) and a scheduled monument.
7. The proposal is to demolish the existing two-storey pitched roof building on the site and erect a four-storey block of apartments of a contemporary design. There is no objection to the height, bulk, overall design or proposed materials of the building. The Council's only objection is to the design of the building's ground floor, which it argues lacks life and activity, particularly when compared to previously approved schemes which included a commercial unit on the ground floor at the front of the building.
 8. The appellant has sought to overcome this criticism by seeking to install Historic Interpretation Panels (HIPs) onto the public facing north and west elevations of the building, showing the historical association of the area as a base for seaplanes from 1917 and during World War II, as well as the above public realm improvements. Although this is welcomed in principle it would not attract the level of activity, in visual terms alone, that a commercial use occupying the ground floor would.
 9. The appellant argues that the Council has allowed a range of uses, including Class B1, in the previous permission, and that such a use would not necessarily generate any life or activity to the ground floor frontage of the building. I disagree. Any of the Class A or B uses previously approved would add activity in visual terms because the occupants, even people working in an office, would be seen through full height plate glass windows.
 10. I acknowledge that the Council has only suggested that a small area of approximately 15m² would be required to provide a 'kiosk' type use with a serving hatch selling coffee/ice cream/snacks etc. It is not insisting that a commercial unit the size of the one previously approved is provided. Nonetheless, I consider that such a facility, would add life and activity to the area in front of the north side of the building. The HIPs and other public realm improvements proposed are unlikely in themselves to generate a similar level of activity.
 11. Undoubtedly this is an important site on the SWCP where walkers from the east approach the city. The SWCP passes immediately in front of the building. Although the HIPs may encourage tourists including walkers on the SWCP to stop and read them, a small café or kiosk facility with benches in front of it would be more likely to attract more activity for longer and would hence add more activity in visual terms.
 12. I have paid careful attention to the submissions of Mr Sturt for the appellant. I acknowledge that this site and Mount Batten generally is not as commercially attractive for food and drink uses as the city centre's waterfront. I note that the current building on the site has not been used as a restaurant since 2006, but that could reflect the quality of the building or its internal facilities rather than the site's location. I also acknowledge that there are a range of such other uses, including the Mount Batten Bar, The Bridge bar and restaurant, the Galley Kitchen café and the nearby ice cream concession van on the adjacent car park. I note that the SWCP passes right next to the Galley Kitchen.
 13. But it also passes right next to this site. This area, with the breakwater and attractive views of the Sound and the city, undoubtedly attracts tourists,

especially in the summer, as demonstrated by the enhanced Mount Batten ferry service at that time of year, albeit I note this ferry actually operates all year round. Whilst Mount Batten is clearly not as popular as the Hoe or the Barbican it is nonetheless an important area of Plymouth's waterfront.

14. Any building on this site should ideally contain uses designed to cater for visitors to the area or at the very least provide visual activity at ground floor level, as an office, café or community facility with full height windows would do. The HIPs would only do this for a few moments. A café or kiosk facility would provide more activity for longer periods of the day.
15. The fact that many ground floor commercial units in new buildings in the heart of the city remain unlet is not a relevant argument for constraining uses on this site next to an important area of waterfront public open space. The fact that concession vans operate from this area indicates that there is a clear market for the provision of such services at Mount Batten, albeit I acknowledge that such vans do not have to pay business rates.
16. The Council has a reasonable policy expectation that this site right on the waterfront should deliver life and activity at ground floor level. I agree that this is necessary here. Otherwise there would be a residential building with effectively (apart from the HIPs and other public realm improvements) a blank ground floor wall directly abutting the main public thoroughfare to the Mount Batten breakwater, Mount Batten tower and the SWCP, the most important national trail in south west England.
17. A ground floor containing solely parking spaces, residents' and bin stores strikes me as particularly unimaginative in this iconic location. Indeed, the most prominent feature on the ground floor of the north elevation would be the double width blank doors to the bin store.
18. I acknowledge that the design of the building has to meet the criteria of the Environment Agency (EA) with regard to flood mitigation measures including in terms of overtopping of the ground floor of the building by high waves. I note the EA is satisfied that the proposed design would be acceptable in this regard. But previous schemes included a free-standing wave wall in front of the building and I am unaware of any reason in principle why this or some alternative method of marine flooding prevention could not be secured within any new design. The EA has not prevented the beneficial occupation of the ground floor by commercial or community uses.
19. The appellant's argument suggesting that the provision of the kiosk unit on the ground floor makes the whole proposal unviable is unclear. I am unclear where the additional £46,000 to provide this unit is evidenced in the appellant's documentation. Even assuming that this is what it would cost, I agree with the Council that such a cost is marginal in relation to the possibility of a slightly higher growth in property prices or a slight permissible variation in contingency costs. I also note that the appellant is at present still seeking permission for an alternative scheme that includes a kiosk unit, which suggests that such a unit may not actually make the whole scheme unviable (LPA Ref 19/00793/FUL).
20. The relevant planning policies are now those in the Plymouth and South West Devon Joint Local Plan. This area is part of Plymouth's waterfront, albeit it is outside the city centre. The intention of Policies PLY1, PLY20, PLY21, SO3, SO11 and DEV20 together is to protect and make the best use of all waterfront

sites and to deliver new residential-led mixed-use developments that integrate successfully with existing communities, enhance community cohesion and achieve a good quality sense of place.

21. Whilst certain waterfront areas in the city – such as The Barbican, Sutton Harbour or Millbay – are specifically singled out for protection or enhancement (e.g. in Policy PLY20) this does not preclude other areas such as Mount Batten from similar treatment, including development that supports tourism and the visitor economy. There is no specific requirement to include commercial uses in this residential development but, given the overall wording and intention of the above policies, I conclude that the proposed building's design would fail to comply with them.
22. For these reasons I conclude that the design of the ground floor of the proposed building would be unacceptable, because it would not provide sufficient life or activity at this key highly prominent waterfront site in the city. Consequently, the appeal is dismissed.

Nick Fagan

INSPECTOR