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## Appeal Decision

Site visit made on 22 May 2020

**by Christopher Miell MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27<sup>th</sup> May 2020**

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**Appeal Ref: APP/Z1775/D/19/3243490**

**358 London Road, Hilsea, Portsmouth PO2 9JY**

- 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 M Nobes against the decision of Portsmouth City Council.
  - The application Ref 19/01406/HOU, dated 12 September 2019, was refused by notice dated 7 November 2019.
  - The development proposed is described as 'proposed extension above the existing garage to the rear of 358 London Road'.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The appellant's statement of case refers to five reasons for refusal. However, the Council's decision notice has two reasons for refusal. For the avoidance of doubt, the main issues set out below have been informed by the Council's decision notice.

### Main Issues

3. The main issues are (i) the effect of the development upon the character and appearance of the area; and (ii) the effect of the development upon the living conditions of the occupiers of Nos 356 and 360 London Road in respect of privacy.

### Reasons

#### *Character and appearance*

4. The appeal property is a two-storey terraced dwelling, which is in use as a house of multiple occupation (HMO), located on London Road. To the rear of the property there is a communal garden area and a single storey garage, which is accessed via an unmade track served by Battenburg Avenue.
5. It is proposed to alter and extend the existing garage to provide two floors of accommodation. The ground floor of the building would provide a garage and bike/bin store, whilst the first floor would provide additional habitable accommodation for the HMO, described on the proposed plans as an annexe, which would be accessed from the rear garden of the appeal property. The building would have a flat roof and brick exterior.

6. The surrounding area has an urban residential character and the unmade track serves garages located to the rear of properties on London Road and Randolph Road. The garages are predominately single storey structures, but there are several two storey garage buildings located to the rear of properties on London Road near to the junction with Battenburg Avenue, some of which are located near to the appeal site.
7. The two storey garage buildings are typically of a modest scale with pitched roof forms, which limit the overall bulk and mass of the respective buildings when viewed from the street. Therefore, the garages have an incidental function and appearance to the surrounding dwellings.
8. Conversely, the proposed alterations and extension to the existing garage at the appeal site would result in the creation of a large two storey building to the rear of the host property, which would have a depth of about 11 metres, and a flat roof design that would emphasise the overall height and mass of the building.
9. Given the above, despite the use of traditional materials, owing to the excessive scale of the proposed building and the flat roof design, when viewed in the context of the other garage buildings, which typically have an incidental function and appearance to the surrounding dwellings, the proposal would appear as an unduly prominent and visually jarring form of development, which would cause significant harm to the character and appearance of the area.
10. The appellant explains that there are several sites in the local area where additional floors have been created above existing garages. However, no further details have been provided and therefore I am unable to assess the relevance of such development in relation to the appeal proposal. In any event, similar development would not provide justification to allow the harm which would result from the appeal proposal.
11. For the reasons set out above, I conclude that the proposed development would cause significant harm to the character and appearance of the area. As such, the proposal would not accord with Policy PCS23 of The Portsmouth Plan: Portsmouth's Core Strategy (January 2012) (the 'CS') insofar as it requires new development to be well designed and, in particular, respect the character of the city. Accordingly, the proposal would also be inconsistent with paragraph 127(c) of the National Planning Policy Framework (the 'Framework'), which requires development to be sympathetic to the local character.

*Living conditions of neighbouring occupiers*

12. The proposed annexe accommodation would be served by first floor windows on the front elevation. The windows would overlook the rear garden of the host building and the rear garden areas of the adjoining properties, in particular Nos 356 and 360 London Road, both of which are residential properties.
13. A large proportion of the rear garden of No 356 has been converted into a car park served by a vehicle access from the existing track, but a small garden area remains immediately to the rear of the property. Due to the open nature of the existing vehicle access along the rear boundary of No 356, the existing garden area is highly visible from the existing track. As such, the garden area is overlooked by the public domain and users of the rear garden do not benefit from any meaningful degree of privacy.

14. Consequently, I am not persuaded that the additional overlooking which would arise from the proposed development would cause harm to the living conditions of the occupiers of No 356 London Road.
15. However, the rear garden of No 360 is enclosed by an existing outbuilding, which prevents views of the garden area from the existing track. Therefore, the rear garden provides a private amenity area for use by the occupiers of No 360.
16. I am cognisant that the rear garden of No 360 is already overlooked by the rearward facing first and second floor windows of the appeal property and other properties on London Road. However, these views of the rear garden are from an oblique angle. Whereas the first-floor windows on the front elevation of the proposed annexe would permit clear views from an elevated position into the rear garden of No 360.
17. The appellant argues that the separation distance between the front elevation of the proposed development and the rear elevation of No 360 is approximately 25 metres. Whilst this may be the case, the proposal would provide long unobstructed views over most of the rear garden of No 360, which would create harmful levels of overlooking and result in a significant and detrimental loss of privacy for the occupiers of No 360.
18. The Council contend that the proposed development would have an unacceptable overbearing impact upon the occupiers of No 360 and the host building. Given the separation distance between the proposed development and the rear elevation of No 360 and the host building this would not be the case. As such, I find that this aspect of the development would not harm the living conditions of the neighbouring occupiers. Despite this, the harm identified above is sufficient to justify dismissing the appeal.
19. For the reasons set out above, I conclude that the proposed development would cause significant harm to the living conditions of the occupiers of No 360 London Road, in respect of privacy. As such, the proposal would not accord with Policy PCS23 of the CS insofar as it requires new development to protect the amenity of neighbouring occupiers.
20. In addition, the proposal would be inconsistent with the requirements of paragraph 127(f) of the National Planning Policy Framework, which requires that development does not have an adverse impact on the amenities of existing and future occupants.

### **Other Matters**

21. The proposal would provide additional living accommodation at the HMO, near to local services and public transport links, which would meet the needs of some members of the local community. However, this would not overcome the very weighty conflict with the identified development plan policies as outlined in the main issues above.
22. The appellant argues that due to the inclusion of a cycle store, the proposal would promote the use of cycling as a sustainable transport method. Whilst this may be the case, the appeal site benefits from an existing garage, which could be utilised to provide cycle storage for occupiers of the HMO. Consequently, this is a matter of neutral consequence in the overall planning balance and therefore does not outweigh my overall conclusion below.

23. The appellant argues that the existing garage has a neglected appearance and if the appeal is dismissed there would be no incentive to undertake improvements. I cannot be certain that refusal of planning permission would necessarily equate to such consequences, but in any event, this would not overcome the weighty conflict that I have identified with the development plan policies as outlined above.
24. None of the other matters alter or outweigh my overall conclusion below.

**Conclusion**

25. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Christopher Miell*

INSPECTOR