
Appeal Decision

Site visit made on 10 August 2020

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 19 August 2020

Appeal Ref: APP/Z1775/W/20/3250829
105 Copythorn Road, Portsmouth PO2 0DZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Jim Fox against Portsmouth City Council.
 - The application Ref 19/01848/FUL, is dated 5 December 2019.
 - The development proposed is conversion of the first floor office accommodation to form 1no 2 bedroom apartment with associated refuse, cycle store and parking with new tiled roof and side dormer and juliet balcony to the front of the property.
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Decision

1. The appeal is dismissed and planning permission refused.

Procedural Matters

2. The appeal is against the Council's failure to determine an application for planning permission.
3. The original plans submitted were superseded in February 2020 which reduced the size of the dormer such that it would not extend beyond the line of the front elevation of No 103 Copythorn Road. I have determined the appeal based on the amended plans.

Background and Main Issue

4. There is no dispute between the main parties that the Council cannot currently demonstrate a five-year supply of deliverable housing sites. Indeed, the Council states that currently it can demonstrate 4.7 years supply of housing land. Therefore, the presumption in favour of sustainable development contained in paragraph 11 d) of the National Planning Policy Framework (the Framework) is engaged. Permission should therefore be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
5. There is no formal Council decision on the application but based on the comments received, and in the context of the above, the main issue is the effect of the proposal on the living conditions of future occupiers with particular reference to outlook and natural light.

Reasons

6. The appeal site comprises an existing single storey commercial building with an upper mezzanine floor. It is positioned on the northern side of Copythorn Road close to the junction with Copnor Road. The proposal is to convert the upper floor of the commercial building into a two bedroom flat with associated refuse, cycle store and parking.
7. The proposed development would include a new tiled roof and the formation of a side dormer. The windows within the proposed dormer that would serve the two bedrooms within the flat would face the side elevation of the neighbouring property No 103 Copythorn Road, a two-storey semi-detached property.
8. The windows would be approximately 2.5 metres from the side elevation of No 103 and below the height of the roof of the neighbouring property. Consequently, taking into account the distance involved, the side elevation of No 103 would have an adverse overbearing effect upon the outlook from the windows of both bedrooms. Furthermore, the proximity of the side elevation of No 103 would reduce the amount of natural light reaching both bedrooms.
9. The appellant points out that all rooms would benefit from high ceilings, as well as windows, and the flat would also be dual aspect. However, notwithstanding these factors, the proposed development, in regard to the two bedrooms, would result in an unduly oppressive living environment for future occupiers in respect of outlook and natural light.
10. For the reasons outlined above, therefore, I conclude that the development would have a significantly harmful effect upon the living conditions of future occupiers of the proposed flat in respect of outlook and natural light. Consequently, in this regard, the proposal would not accord with Policy PCS23 of The Portsmouth Plan¹ which, amongst other things, seeks to ensure new development protects the amenity and the provision of a good standard of living environment for future residents. It would also be contrary to paragraph 127 f) of the National Planning Policy Framework (the Framework) which, amongst other things, seeks a good standard of amenity for all future occupants of buildings.

Other Considerations

11. I have taken into account the various benefits of the proposed development identified by the appellant in line with the overarching objectives set out in paragraph 8 of the Framework.
12. The appeal site has good access to public transport and the services and facilities that the city has to offer. As a result, it is in an accessible location.
13. The proposal would seek to boost the supply of housing in the context that the Council cannot currently demonstrate a deliverable five-year supply of housing land. However, the proposal is only for one new dwelling and therefore its contribution to future housing provision would be modest.
14. I have no doubt that the occupiers of the dwelling would help to support local facilities and services, although the economic contribution from the occupiers of one dwelling would not in itself be a very significant benefit. Furthermore, the

¹ The Portsmouth Plan – Portsmouth's Core Strategy (adopted January 2012)

proposal would lead to some employment through the construction phase of the development, although this would be a short-term benefit.

15. In determining this appeal, I afford the above considerations positive weight in the overall planning balance.

Other Matters

16. The appeal site is located within the 5.6 km buffer zone of the Portsmouth Harbour Special Protection Area (SPA). The appellant indicates that he is in the process of finalising a unilateral undertaking to provide the appropriate mitigation for the impact of the proposal on the SPA. Nonetheless, had the proposal been acceptable in planning terms, it would still have been necessary for me to undertake an Appropriate Assessment as the competent authority. However, regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 indicates the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to approve planning permission. Thus, given my overall conclusion on the main issue it has not been necessary for me to pursue this matter any further.

Planning Balance and Conclusion

17. As a result of the proposed development I have found that significant harm would be caused to the living conditions of future occupiers in terms of outlook and natural light. I afford substantial weight to this matter as part of the determination of this appeal noting conflict with both development plan and Framework policies.
18. In conclusion, I find that the identified adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Consequently, the proposal would not amount to a sustainable form of development and therefore the appeal should be dismissed and planning permission refused.

Andrew Bremford

INSPECTOR