



Appeal Decision

Site visit made on 1 April 2021

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 April 2021

Appeal Ref: APP/D1780/W/20/3264610

Compass House, Romsey Road, Southampton SO16 4GU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 20, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) (as amended).
 - The appeal is made by Mr Bernard Margulies of BMR Compass Ltd against the decision of Southampton City Council.
 - The application Ref 20/01286/PA2A, dated 22 September 2020, was refused by notice dated 17 November 2020.
 - The development proposed is prior approval for a two storey roof extension above principle building to create 48 additional dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal proposal is submitted as a prior approval under Schedule 2, Part 20, Class AA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO). The Council conclude that the proposal is eligible to be considered in the context of the provisions set out in paragraph AA.1 and I have not found any reason to conclude differently.
3. Paragraph AA.2.(1) of Class AA sets out that developers must apply for prior approval as to a range of matters. The Council refused to grant approval in respect of conditional matters relating to transport and highways impacts (a) and the external appearance of the building (e).
4. A unilateral undertaking made as a deed under Section 106 of the Town and Country Planning Act 1990 was submitted during the processing of the appeal. I return to this matter below.

Main Issue

5. The main issue is whether the proposal would be permitted development under Schedule 2, Part 20, Class AA of the GPDO with specific regard to the conditions set out in Paragraph AA.2(1) (a) and (e).

Reasons

External appearance (e)

6. The appeal building is a substantial four storey rectangular building designed as an office complex around a central courtyard. It is of a simple, streamlined,

horizontal aesthetic and the only minor interruptions to its form are the existing service blocks.

7. A number of prior approvals and relevant planning applications have been approved which have resulted in fallback positions that would allow the building to convert to 245 no residential flats and for another part fourth storey to be added above to provide a further 19 no flats.
8. The appeal proposal seeks to add two storeys above the existing building, instead of the originally consented part-fourth storey addition. The proposed two storey addition would comprise 48 no flats.
9. The proposal is described in the evidence as a 'crown' for the existing building, which by its very nature would add a prominent and fussy element to the top of an existing building which was conceived as a 'blocky' and horizontal building, and appears so without offending the eye or undermining the character or appearance of the area.
10. Due to the contrived form and detailing of the proposed extension, specifically the assortment of varied heights, set-backs and use of materials, which has been designed as such to limit harm to the living conditions of the closest neighbours, it would appear as an oddity on top of the existing building. It would become a dominant feature in views from the surrounding residential area; the scale and layout of which has been influenced by the building's existing scale, form and design. Notwithstanding the extension that already has approval, and taking a narrow interpretation as to the effects on the building's external appearance, including on its principal elevation and side elevations that front a highway, the proposal would introduce a fundamental change that would undermine the simplicity and coherent form and appearance of the building.
11. Therefore, I do not find the proposal to be acceptable in terms of external appearance.

Transport and highway impacts

12. A number of highway works have been agreed for extant permissions that are necessary to facilitate the proposed new residential use of the building. These works include the relocation of the nearby bus stop on Romsey Road, the alteration of the site junction from a mini-roundabout to a T-junction, the provision of additional footway and the provision of a Traffic Regulation Order to lengthen the parking-restricted area along Romsey Road. Further measures to require the repair of any damage to the public highway are also proposed.
13. A unilateral undertaking (UU) made as a deed under Section 106 of the Town and Country Planning Act 1990 has been submitted providing for contributions to cover the above transport measures. I consider that such measures would be reasonably related in scale and kind, necessary and directly related to the development, particularly considered in conjunction with other consented schemes which are likely to be implemented.
14. The Council indicates that the UU contains issues in respect of the sums provided for the highway measures. However, as the appeal is failing in relation to another prior approval condition in any event, I do not need to consider this matter further.

Protected Sites

15. The appeal site is within the zone of influence (i.e. within 5.6km) of the Solent and Southampton Special Protection Area (SPA) and Ramsar site and the Solent Maritime Special Area of Conservation (SAC) (hereafter referred to as the Protected Sites).
16. The GPDO is a 'development order' which grants permission for development subject to the conditions expressly set out therein and subject also to other necessary conditions that the Council may impose. Under article 3(1) of the General Permitted Development Order and regulations 73 to 76 of the Conservation of Habitats and Species Regulations 2017, a development must not be begun or continued before the developer has received written notice of the approval of the local planning authority. This is explained in the Planning Practice Guidance¹.
17. The requirement for the written approval of the Council prior to the commencement of development is therefore embedded in legislation that seeks to protect the integrity and features of the Protected Sites. But this aspect of the process falls outside of the prior approval regime. Whilst the mitigation measures sought by the Council may be considered necessary in order for a written approval notice to be issued, it is not a matter for me as part of this appeal which is failing in respect of another main issue in any event.

Conclusion

18. The proposal would not comply with the applicable conditions, having particular regard to condition (e) of paragraph AA.2(1) of the GPDO, and therefore is not development permitted under Schedule 2, Part 20, Class AA of the same.
19. For the above reasons the appeal is dismissed.

Hollie Nicholls

INSPECTOR

¹ Paragraph: 019 Reference ID: 13-019-20190722