



Appeal Decision

Site visit made on 22 March 2022

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st April 2022

Appeal Ref: APP/Z1775/D/21/3283459

7 Oyster Mews, French Street, Portsmouth, PO1 2JS

- 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 Steve Langton against the decision of Portsmouth City Council.
 - The application Ref 21/00584/HOU, dated 15 April 2021, was refused by notice dated 30 July 2021.
 - The development proposed is construction of single storey extension to front elevation; and alterations to rear elevation and roof slopes to include partial second floor extension, raising of eaves and construction of dormer windows.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by the Appellant against Portsmouth City Council. This application is the subject of a separate decision.

Main Issues

3. The main issues are the effect of the proposed development on: (a) the character and appearance of the host property and surrounding area, with particular regard to the appeal site's location within the Old Portsmouth Conservation Area; and (b) the living conditions of neighbouring occupiers, with particular regard to loss of privacy.

Procedural Matters

4. I have adopted the description of the proposed development as set out in the Council's decision notice as this more accurately describes the proposal.

Reasons

Character and appearance

5. The appeal site lies within the Old Portsmouth Conservation Area (OPCA). Section 72(1) of the Planning (Listed Buildings and Conservation Area) Act 1990 requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of that area. Similar advice is to be found in the National Planning Policy Framework (July 2021) (Framework) and in policy PCS23 of The Portsmouth Plan (January 2012) (TPP).

6. The Council have published a document titled 'Guidelines for Conservation' for the OPCA (November 2006) (OPCA Guidelines), which provides supplementary planning guidance to the local plan. The OPCA Guidelines state, particularly within the Townscape Analysis in section 4, that the Conservation Area comprises the old town of Portsmouth centred on Broad Street, High Street and St Thomas's Cathedral. It continues by emphasising that the older housing within the area comprises predominantly 3 storey Georgian houses built to the back edge of the pavement within largely continuous frontages that provide a strong sense of enclosure.
7. Section 5 of the OPCA Guidelines states that the architectural character of the area is diverse due to the extent of post war redevelopment. Also, that most of the historic buildings in the area are listed, which includes the Georgian terrace to the east of the appeal site on Lombard Street. The OPCA Guidelines continue by stating that the area north of the High Street, which includes the appeal site, comprises mostly post war development built incrementally between the 1960's and 1980's. Some of this development is recognised as being poor and dated, whereas some schemes are more noteworthy due to the design of their main facades which has enabled them to sit comfortably within the context of their Georgian neighbours.
8. The appeal site was built as part the Oyster Mews development in the 1970's and comprises approximately 17 houses. There is no reference to this development anywhere in the townscape or architectural assessment or for that matter within any part of the OPCA Guidelines. Based on this and my observations on site neither the appeal site nor the wider Oyster Mews development form part of the distinctive and special historic character of the Conservation Area and the contribution both make to the character and appearance of the OPCA, when viewed as a whole, is therefore neutral.
9. Section 9.0 of the OPCA Guidelines states that the overall aim of the guidance is to assist in the preservation and where appropriate enhancement of the Conservation Area. To achieve these aims section 9.0 identifies those elements that are important to the area and the relevant guidelines for assessing new development. Parts 1) (d) and (f) relate to roof alterations and state that large roof extensions or dormer windows will generally be discouraged particularly on elevations visible from a public highway or where they would have an adverse visual effect on the existing building or townscape or where they would lead to the loss of original historic roofs and features. As such, it states that large dormers should be kept to the rear roofscape of existing buildings.
10. The proposal includes the construction of a single storey extension to the front elevation of the host property. This would be similar to other infill extensions permitted in Oyster Mews and would therefore be acceptable. Part of the ridge to the host property would be marginally increased in height to match that of the main ridge line, with two new rooflights added on the front elevation. Again, due to the small scale of these alterations and as the pallet of materials would match existing these works would also be acceptable.
11. On the rear elevation of the host the existing eaves would be increased in height and a partial second floor extension and new dormer constructed to enable the existing loft space to be converted into additional living accommodation. The submitted plans indicate that the new extension and dormer would be constructed in materials to match existing.

12. The appeal site is effectively located at the rear of the Oyster Mews development. The road leading to the host property is private and there is no public throughfare. The front elevation to the host faces onto the private road whereas the rear elevation faces onto the rear of the properties located to the east of the appeal site. Consequently, the proposed roof alterations would not be visible or prominent within the streetscene and neither would they lead to the loss of any original historic roof forms or features.
13. As I observed on my site visit the proposed roof alterations would not be visible from any public highway or public vantage points and would only be visible from the rears of the properties that back onto the host property. Even so, those views would not result in any adverse visual impact on the townscape or those architectural features, identified in the OPCA Guidelines, which contribute to the special historic character and appearance of the OPCA. Whilst I accept that the proposed roof alterations would involve a change to the rear elevation, they would not lead to any harm to the character or appearance of the area or effect the neutral contribution that the host property and wider Oyster Mews development makes to the OPCA.
14. The proposed roof extension and dormer would sit marginally below the main ridge to the host property, be set in from the common boundary with the adjoining property and constructed from a pallet of materials to match existing. Although its design is more modern and less traditional, in view of the above I am satisfied that the proposal would not be visually prominent when viewed from the streetscene or public highway and, consequently, that it would not result in any harm to the character or appearance of the OPCA.
15. The Council's Delegated Report refers to their Design Advice Notes No.3 Dormers, rooflights and roof extensions (January 2004) (Design Advice), albeit it is not referred to in their reason for refusal. Whilst the status of this document is unclear, I note that the Design Advice states that where the rear of a property cannot be seen from public areas (including streets, parks and footpaths) the principle of larger box dormers, with flat roofs, will be acceptable, subject to certain design criteria. This reinforces the findings I reached above, that a more flexible approach should be taken to such alterations where they cannot be seen from public areas and where they would have no material visual impact on the streetscene.
16. Accordingly, I find that the proposed development would preserve the character and appearance of the OPCA, as a whole, in that it would leave it unharmed and would thus be in accord with policy PCS23 of the TPP and the corresponding policies of the Framework.

Living conditions - neighbours

17. The Council object to the proposed windows within the new dormer at second floor level, which would serve bedroom 3. They contend that these new windows would result in an actual and perceived loss of privacy to the occupiers of No's 7 and 9 Lombard Street (No's 7 & 9). Concerns have also been raised by interested parties regarding loss of light and overshadowing. However, there is no evidence before me to suggest that either of these concerns would result in any material harm and I note they are not issues that the Council have raised in their objections to the proposal.

18. The host property is sited close to the common boundary with the properties in Lombard Street, separated from it by a small rear garden (terrace). Whilst there is a substantial brick wall on the common boundary, as I observed on site the existing rear first floor living room window to the host already affords views of the rear of No's 7 & 9. Based on those observations and evidence before me, including the submitted plans (and in the absence of a section plan showing the relative height of the new windows), the proposed windows would provide the occupiers of the host property with more direct and clearer views into the rears of No's 7 & 9. The views introduced by these windows would be new, in a location where no such views exist at present. As the new windows would be at a higher level they would enable the occupiers to look down and into the rear gardens of No.'s 7 & 9 resulting in an unacceptable loss of privacy to the occupiers of those properties.
19. The Appellant argues that the distance between the proposed windows and the rear elevations to No's. 7, 9 and 11, is just over 20 metres and that this is sufficient to preclude any harmful loss of privacy. Whilst I accept that such distances are often used as a rule of thumb to judge the acceptability of building to building relationships, it ignores the fact the proposed windows would enable the occupiers of the host to have direct views into the private rear gardens of No's 7 & 9, over a distance that would be less than 20 metres.
20. Where issues of overlooking arise the decision maker is often required to apply their planning judgement to the acceptability of the relationships that arise. This approach is common and involves the decision maker having to draw on their experience of similar developments. I note that the Council's Officers based their findings following a site visit and on the representations, including photographs, received from interested parties. For the reasons given above, I concur with the Council's findings in this respect.
21. Accordingly, I find that the proposed second floor bedroom windows would give rise to an unacceptable level of overlooking of the rear gardens to No's 7 and 9 Lombard Street contrary to policy PCS23 of TPP. The latter seeks to ensure, amongst other requirements, that new development protects amenity and provides a good standard of living environment for neighbouring occupiers. This policy is consistent with that in paragraph 130 f) of the Framework.

Conclusion

22. For the reasons given above and having taken all other matters into account, I conclude that the appeal should be dismissed.

G Roberts

INSPECTOR