



Appeal Decision

Site visit made on 24 June 2022

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 July 2022

Appeal Ref: APP/Z1775/W/21/3289605

Roebuck House, Roebuck Close, Portsmouth, PO6 2TA

- 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 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Mr J Schreiber of Kingscliff Estates Ltd against the decision of Portsmouth City Council.
- The application Ref 21/00020/PACOU, dated 13 May 2021, was refused by notice dated 19 August 2021.
- The development proposed is the change of use from offices to 56 dwellinghouses.

Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of offices to 56 dwellinghouses, in accordance with the terms of the application, Ref: 21/00020/PACOU, dated 13 May 2021, and subject to the following additional conditions:
 - 1) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. jw1028-108 Rev C for 46 car parking spaces and those spaces shall thereafter be kept available at all times for the parking of vehicles in connection with the residential occupation of the site.
 - 2) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. jw1028-108 Rev C for 98 secure bicycle parking spaces and those spaces shall thereafter be kept available at all times for the parking of bicycles in connection with the residential occupation of the site.

Preliminary Matters and Main Issue

2. Class O of the GPDO¹ relates to the change of use of buildings (and land within their curtilage) from the Class B1(a) use class (offices) to dwellings. However, Class B1(a) has been replaced by Class E². Class MA of the GPDO is concerned with the change of use of premises from Class E to dwellinghouses. Nevertheless, by virtue of Paragraph O.2(2)(b) of the GPDO, an application for prior approval in respect of Class O can still be determined if it was made before 31 July 2021, as is the case here.

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

² The Town and Country Planning (Uses Classes) Order 1987 (as amended)

3. The Council has not taken issue with whether the proposal complies with the limitations in Paragraph O.1 of the GPDO. Moreover, the Council has not articulated any concerns regarding the prior approval matters listed (b) to (e) in Paragraph O.2(1) of the GPDO. After considering the evidence before me, I have no reason to disagree. As a result, the main issue in this appeal is the transport and highways impact of the development, namely the adequacy of the level of parking proposed.

Reasons

4. When applying the guidance in the Council's Parking Standards and Transport Assessments Supplementary Planning Document (SPD), a proposal comprising 56 flats at the bedroom mix proposed would need to provide 77 onsite parking spaces and 92 cycle parking spaces. However, the Council are satisfied the level of parking proposed as part of the scheme can be set below that set out in the SPD. This is on account of the site's location close to several services and facilities, which would reduce the need to own a car. To this end, the Council would be content with 56 car parking spaces, which would be one per flat, and 92 bicycle parking spaces.
5. The desire to own a car should not be conflated with the need to. Future residents may, for example, travel to work by non-car modes, but could still want to own a car for other reasons. Nevertheless, I observed a very high number of services and facilities in and around the North End District Centre and close to the appeal site. This includes a bus interchange and rail station. This is such that in this instance owning a car could prove to be an unnecessary expense for some future residents of the appeal scheme. Thus, I share the view of the appellant and Council that it would be excessive to apply the standard in the SPD to the appeal scheme.
6. The appellant has designed the scheme to provide 46 parking spaces and 98 bicycle spaces. This would be a shortage of 10 vehicle parking spaces against the level of parking the Council is seeking. The appellant submits that this would be appropriate when having regard to car ownership levels in the area. The National Planning Policy Framework (the 'Framework') states that parking standard should take account of local car ownership levels.
7. Census data based on 109 dwellings in the vicinity of the appeal site indicates that 57% of households do not have a car. This results in an average of 0.5 cars per dwelling, which is lower than the average for Cosham and Portsmouth (1.09 and 0.95 respectively). Moreover, car ownership is lower (approximately 0.43 cars per dwelling) for small 1-3 room flats such as those proposed. This would suggest that the appeal site is in an area where car ownership levels are particularly low, perhaps because services can be access by other modes of transport. This could mean that residents live in this area because they do not need/want a car, or they do not have the resources to run one.
8. Therefore, the appellant's Transport Statement concludes that the parking requirement/demand of the scheme could be set at between 21-33 spaces when applying the census data. The Council's Highway Engineer has queried this analysis and suggested it is not credible, but has not provided a detailed critique or suggested the data is incorrect.
9. As a result, the appellant's analysis seems plausible and therefore 46 car parking spaces would exceed the likely parking demands of the proposal. The

provision of more than 33 spaces would allow for a margin of error. Thus, it is unlikely that the appeal scheme would result in a residual parking demand that needed to be accommodated on street. Accordingly, the risk of indiscriminate or inappropriate parking would be very low and consequently there is no need for an offsite parking survey.

10. In reaching this view, I note that the Council has already approved (Ref. 21/00022/PACOU) a change of use of the appeal site to 50 homes with 46 parking spaces. As a result, it has already authorised a development where the level of parking would be lower than one space per dwelling. This suggests that even if the parking demand would be one space per dwelling, there would be no harm to highway safety from permitting a lower parking provision.
11. Moreover, during my site visit I observed that there are several parking controls around the appeal site in the form of double yellow lines. Elsewhere, on street parking is available for a time limited period in marked bays. The parking in other nearby streets is generally out of sight of the appeal building and some walk away. It is therefore less likely to be used by future residents of the appeal scheme. It is also arranged in bays and subject to permits. Therefore, with these controls in place there would seem little scope for inconsiderate offsite parking to occur.
12. In conclusion, I am satisfied from a review of the evidence before me that the level of parking would be adequate and therefore the proposal would not prejudice highway safety. In this respect, it would adhere to Policy PCS17 of the Portsmouth Plan 2012, which seeks to reduce the need to travel. Significantly in this instance given the requirements of Paragraph W(10)(b) of the GPDO, the proposal would also adhere to Paragraph 111 of the Framework.

Other Matters

13. I note the additional concerns of interested parties but matters such as the loss of office space fall outside the points I can consider. The removal of asbestos and the adequacy of plumbing fall to be considered under other legislation.
14. The appeal site is located close to the Solent Special Protection Area. It is therefore important to note that Article 3(1) of the GPDO grants planning permission for the classes of development described as permitted development in Schedule 2 subject to Regulations 75- 78 of the Conservation of Habitats and Species Regulations 2017. Regulation 75 provides that it is a condition of any planning permission granted by a general development order made after 30 November 2017 that development which is likely to have a significant effect on a European site, and is not directly connected with or necessary to the management of the site, must not begin until the developer has received written notification of approval under Regulation 77.
15. Article 3(1) effectively imposes a pre-commencement condition on all development that is permitted by the GPDO and would affect a European protected habitat such as the Solent SPA. Accordingly, such development cannot be lawfully begun until the developer has made a Regulation 77 application and the competent authority is satisfied that the development would have no adverse effect on the integrity of the habitat. The Regulation 77 application should be made to the local planning authority in the first instance.

Conditions

16. In accordance with Condition Q.2(3) of the GPDO, the approval is subject to the condition that development must be completed within a period of 3 years from the date of this decision. Paragraph W(12) of the GPDO requires the development to be carried out in accordance with the approved details. As these conditions are already in force there is no need for me to repeat them.
17. Paragraph W(13) of the GPDO allows prior approval to be granted subject to conditions reasonably related to the subject matter of the prior approval. The Council has suggested two conditions relating to car and cycle parking. These are necessary to ensure there would not be a marked increase in additional pressure for on street parking. I have slightly amended the recommended conditions in the interests of precision.

Conclusion

18. In conclusion, for the reasons given above the appeal is allowed.

Graham Chamberlain
INSPECTOR