



Appeal Decision

Site visit made on 24 January 2023

by R J Jackson BA MPhil DMS MRTPI MCMi

an Inspector appointed by the Secretary of State

Decision date: 30th January 2023

Appeal Ref: APP/Z1775/D/22/3302538

179 Tangier Road, Portsmouth PO3 6PG

- 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 Dean Bristow against the decision of Portsmouth City Council.
 - The application Ref 20/01079/HOU, dated 30 December 2020, was refused by notice dated 19 April 2022.
 - The development proposed is to drop a kerb outside property.
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Decision

1. The appeal is allowed and planning permission is granted to drop a kerb outside property at 179 Tangier Road, Portsmouth PO3 6PG in accordance with the terms of the application, Ref 20/01079/HOU, dated 30 December 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
Location Plan reference TQRQM20268134723017,
Location Plan reference TQRQM20268133457196, and
Site Plan with reference 20/01079/HOU.

Preliminary Matters

2. The Council's formal decision notice included only a single reason for refusal relating to the effect on highway safety. However, in the report setting out the reasoning for the decision a second reason for refusal relating to the effect on street character was cited.
3. Under section 79(1) of the Town and Country Planning Act 1990 (as amended) (the TCPA) the Secretary of State may deal with an appeal as if the application had been made to him in the first instance. These powers derive to me through the operation of Schedule 6 of the TCPA. However, for me to consider the effect on the street character would be unfair to the appellant as it did not form part of the Council's formal decision and I will therefore only deal with the effect on highway safety.

Main Issue

4. The main issue is the effect on highway safety.

Reasons

5. The Council has referred to Policy PCS17 of the Portsmouth Plan which deals with transport. However, none of the criteria within it deal with highway safety. I would accept that the policy does seek to promote walking which would be discouraged if conditions were made unsafe for walkers. However, this seems to me to be a tangential connection rather than a direct application of the policy.
6. It has also referred to saved Policy DC26 of the Portsmouth City Local Plan 2001-2011 (the PCLP). This policy indicates that proposals which would result in a net increase in the number of access points onto primary and distributor roads, of which Tangier Road is one, will not normally be permitted. The explanatory text sets out that this is to prevent the proliferation of accesses and the interruption of the flow of traffic on these roads and to ensure that efficient use is made of the available highway capacity. The explanatory text continues that this policy is intended to safeguard against the introduction of individual access points at unscheduled intervals, rather than to impede the access of new development proposals, especially those allocated within the plan.
7. Paragraph 219 of the National Planning Policy Framework (the Framework) indicates that existing policies in plans should not be considered out-of-date simply because they were adopted or made prior to its publication. Due weight should be given according to their degree of consistency with the policies in the Framework.
8. Paragraphs 110 to 113 of the Framework deal with considering development proposals in relation to transport. Paragraph 111 makes clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.
9. It seems to me therefore, that Policy DC26 of the PCLP is not consistent with the terms of the Framework as it relates to neither highway safety nor directly on impacts on the road network. I therefore consider that it should be given lesser weight and rather than the tests set out in paragraph 111 of the Framework applied.
10. Tangier Road is a classified road made up, in this section, of frontage development of terraced houses on the northern side. Beyond the opposite side appears to be a public park and there is a small car park to the west. Parking is restricted by double yellow lines on the southern side between a bus stop a short distance to the east of the appeal property and the entrance to the car park.
11. Parking is not restricted on the northern side of the road, and at the time of my site visit in the middle of a weekday morning there was on-street parking outside the properties but also a number of spaces. No parking surveys have been submitted.
12. Tangier Road is effectively straight on this section opposite this terrace and that to the northeast. However, it curves slightly to the north at the western end of the terrace. The appeal property is in the middle of this terrace with three properties to the southwest before the end.

13. None of the properties on this or, all but the far end of, the next terrace to the northeast, have vehicular access to the street from Tangier Road. The front boundaries are marked with approximately 1.0m high walls, with taller piers and personnel gates. However, there are dropped kerbs and parking areas in front of a small number of dwellings to the west, principally at the end of terraces where the road curves. There are more dropped kerbs and parking areas in front of properties in Tangier Road in the terraces to the northeast beyond the junction with Algiers Road.
14. Tangier Road is relatively wide allowing for vehicles to pass each other even when the northern carriageway is partially used for on-street parking. There is also a wide footway. There would be insufficient room within the frontage area to allow a car or similar vehicle to turn, meaning that either access or egress from the proposed parking would have to be in a reverse gear.
15. I noted that due to the curved alignment of Tangier Road visibility is restricted to the west. There is a 30 mph speed limit in this area, and with the existing vehicular accesses drivers can be expected to be paying attention for movements to and from these accesses and to and from spaces in on-street parking.
16. The boundary walls on either side also mean that any driver would only be able to see pedestrians when they get close to the parking area. However, pedestrians will already be aware of vehicles manoeuvring to and from the other parking spaces on frontages in the vicinity, and vice versa, and both should be paying appropriate attention.
17. The Council has not provided me with any accident statistics to show that there are issues particularly prevalent in this area, particularly any related to individual accesses to properties.
18. Taking all the above together I am satisfied that while the visibility splays do not meet the relevant criteria, given the speeds in the area, that there are movements associated with other accesses in the area with no accidents reported to me, the proposal would not increase the risk to highway safety to an unacceptable extent. It would therefore not discourage accessibility to all users.
19. I conclude that while the proposal would be contrary to Policy DC26 of the PCLP it would comply with Policy PCS23 of the Portsmouth Plan which seeks to encourage accessibility to all users. It would also not conflict with paragraph 111 of the National Planning Policy Framework as set out above.

Conditions

20. I have considered the conditions put forward by the Council against the requirements of the national Planning Practice Guidance and the Framework. In addition to the standard timescale condition, I have imposed a condition specifying the relevant drawings as this provides certainty.
21. The Council suggested a condition requiring that an application for a licence for a footway crossing be made. This is not necessary as this would duplicate the requirement of other legislation.

Conclusion

22. The proposal would comply with certain policies in the development plan but would not comply with others. Overall, I consider that the proposal would comply with the development plan as a whole and there are no material considerations to outweigh determining the plan in accordance with those policies. For the reasons given above I conclude that the appeal should be allowed.

RJ Jackson

INSPECTOR