

Appeal Decision

Site visit made on 19 September 2023

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 January 2024

Appeal Ref: APP/Z1775/W/23/3317073

Selma & Spencer Court, Merton Road, Southsea, Portsmouth PO5 2AH

- 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 Pediment Properties Ltd against Portsmouth City Council.
 - The application Ref 22/00940/FUL is dated 17 June 2022.
 - The development proposed is the construction of additional storey to provide 3no. dwellings, with external terraces and associated works, including car parking and provision of external lift.
-

This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 7 November 2023.

Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matter

2. After the appeal had been lodged the Council issued an Officer's Report which sets out its position with the conclusion that the Council would have refused the proposal had it rested with the authority for determination. The Council is concerned with impacts upon residential amenity and the Solent Special Protection Area. The Report also includes the responses of consultees and the not insignificant volume of local people who raised wide ranging aesthetic, amenity and technical concerns.
3. I shall determine the proposal against what I consider to be the most relevant development plan policies as well as prevailing national planning policy and consideration of sustainable development.

Main Issues

4. The main issues are the effects of the proposal on: a) the character and appearance of the locality, b) living conditions for neighbours, c) highway safety and parking provision and d) nature conservation interests.

Reasons

5. The appeal property is an unremarkable four-storey latter half of the 20th century block of flats. It has a flat roof and projecting balconies on the upper floors on some of the facades rising from the irregular footprint. Parking, garaging and a small garden area lie to the rear with main gardens to the north
-

facing front. It faces and has vehicular access to a cross roads in an established area of residential character within Southsea.

6. In terms of scale and form the appeal building is an anomaly locally and appears out of place from most public vistas. To one side is a modern 5 home townhouse scheme with, otherwise, appreciably older detached and semi-detached large homes in an attractive villa style with a spacious ambience setting the frontage and side contexts. To the rear, which has pedestrian access, lies Wilton Terrace a street of pleasing generally two storey terraced homes.
7. The proposal is as described above.

Character and appearance

8. The site lies within Owen's Southsea Conservation Area. There is a duty imposed by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requiring decision makers to have special regard to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
9. There is an argument put that taking an opportunity to create a further floor on this block, if designed suitably, could enhance the overall built form or at least be neutral in Conservation Area terms and visual quality generally. I understand the case for a modern idiom and lightweight skew and I would not dismiss the principle out of hand. Regrettably, whilst I appreciate the Council's position, like many local people I am not persuaded that what is put forward in this appeal proposal is the approach which should be taken.
10. A concern I have is that by bringing handrailing and balustrading right to the edge of almost all the lengths of existing flat roof this upper level would be given undue prominence. This would be compounded by only a very modest set back of the new upper floor. Furthermore, there would be a terrace-creating roof over this which would project appreciably from the new elevations. All told the new scheme would simply draw the eye to the block's (increased) height, compared to surrounding generally well-mannered and lower-level development; it would unfortunately be even more of an awkward anomaly and be visually paramount. In my opinion the planned works are not sufficiently subservient.
11. Given the above aesthetic concerns I conclude that the proposal would run contrary to the aims of S72(1) of the Act. At the same time, I conclude that the appeal scheme would not accord with Policy PCS23 of the Portsmouth Plan 2012 (PP). The appeal scheme would fail to align with its call for well-designed development with excellent architecture being used for changes to existing buildings to achieve appropriate form, scale and appearance for a particular context

Living conditions

12. The layout and architectural approach which I criticise above would also, to my mind, have an adverse amenity impact on neighbours; particularly those to lying west and south west corner of the appeal site. Given on-the-roof-edge balustrading and built development proximate to the outer line of the roof my opinion is that immediate and close massing, already beyond the norm, would feel excessive and dominant. There would also be an actual and perceived

increase in overlooking which would be more prevalent than from existing fenestration or the more thoughtfully positioned balconies.

13. The planned new lift core would have a very unfortunate disposition relative to a stack of the three nearest kitchen windows. The structure would come partly across and very close to these windows. There would be a marked and unacceptable impact on light to, and outlook from, these windows. The new lift structure would be unduly intrusive.
14. Two new car parking spaces are proposed for part of the grounds to the rear. Regrettably they would be in close proximity to some ground floor windows and living space and the result would be undue disturbance to immediate neighbours from coming and going. It would also be unfortunate that a not insignificant proportion of what is a limited area of 'green' within a generally hard-surfaced environment would be lost; a further reduction of amenity for existing residents.
15. PP Policy PCS23 is pertinent. Amongst other matters it seeks to secure well-designed development which would protect standards of residential amenity. Given the foregoing I would conclude that the appeal scheme would conflict with this policy.

Highway safety and parking

16. I recognise that the existing entrance to the parking area of the flats is not ideal or to modern standards. However, I see its operation as more one of inconvenience to users rather than an actual safety hazard to pedestrians or those in vehicles on site or on the highway. It strikes me that any extra vehicles, with or without the two parking spaces referred to above, will, like existing flows, be travelling slowly on the drive.
17. I would assess that slow speed is also likely for those passing along the road because they are approaching or exiting from the cross-roads. Footway provision is good for pedestrians, this pathway is not a busy one, and with numerous driveways in close proximity, frequently limited in visibility, I would expect there will be caution exercised by most. I have no accident figures but, in any event, any extra movements would be minimal in number and I am content on the highway safety point.
18. The block as it stands would fail to meet prevailing Council guidance on parking and I am aware that parking permits are over-subscribed locally. However, I find the accessibility of this immediate location and public transport options to be compelling reasons for believing that car ownership could well be below the norm and that certainly car-free living here would be more amenable than in most locations. In any event, and again with or without the two new spaces referred to above, the likely additional numbers of cars generated by the scheme will be relatively small and I am not persuaded that a strict mathematical formula should apply here. I note that cycle parking is included within the scheme and the Appellant would also be accepting of a planning condition preventing new residents from applying for permits.
19. I conclude that given the starting point here, and my view that there should be some flexibility on a case-by-case basis as to the application of parking provision and precise access arrangements, that the appeal proposal would not conflict with PP Policy PCS17. Amongst other matters this policy seeks

accessible development which promotes walking and cycling and increased use of public transport.

Nature conservation interests

20. It is necessary to ensure that the proposed development would not have a significant effect on the interest features for which Portsmouth Harbour is designated as a Special Protection Area, or otherwise affect protected habitats or species. Two potential impacts could arise by reason of the appeal proposal; these being i) potential recreational disturbance around the shorelines of the harbours, and ii) increased levels of nitrogen and phosphorus entering the Solent water environment.
21. I note that Council Officers submitted an Appropriate Assessment, dated 20th July 2023, to Natural England and no objection was raised to the proposal subject to the necessary mitigation being secured. Based on current policy and practice the mitigation contribution for the recreational disturbance to birds would be calculated at £1,917 and nitrate mitigation would be required and calculated as a financial contribution of £6,550 required for mitigation in perpetuity. I am told that the Appellant has made the necessary payment in respect of nitrate mitigation pursuant to the standard template S111 Agreement and the Council would complete this should I so request. However, bearing in mind my negative conclusions on two of the other main issues, and keen to minimise administration for all, I would deem there is no need to take this matter further.
22. I acknowledge and accept that a S111 could have been completed. Had I been minded to take this forward then the appeal scheme would not have been contrary to PP Policy PCS13 which, amongst other matters, is concerned with promoting biodiversity and protecting habitats and is supported by the Habitats Regulations.

Other matters

23. The appeal proposal would be an innovative way to increase housing supply within the City, albeit to a small degree. However, regrettably for the environmental and social reasons I set out above, and not outweighed to my mind by the economic or accessibility benefits, the scheme would not represent sustainable development.
24. I have carefully considered all the points raised by the Appellant but these matters do not outweigh the concerns which I have in relation to two of the main issues identified above.
25. I confirm that policies in the National Planning Policy Framework (the Framework) have been considered. Key objectives of the Framework are to safeguard residential amenity and to protect and enhance the qualities of the built environment as well as to safeguard heritage assets; the development plan policies which I cite mirror these. The Framework underlines that great weight should be given to a heritage asset's conservation. The appeal proposal would lead to less than substantial harm to the significance of the designated heritage asset however what public benefits there would be would not outweigh this harm. Furthermore, there are no other benefits, including to the Appellant, which to my mind would be of a scale to outweigh the harm to the Conservation Area which I have identified.

Overall conclusion

26. For the reasons given above I conclude that whilst the proposal would be acceptable in highway safety and parking provision terms, and could have been effectively neutral on the nature conservation front, it would have unacceptable adverse effects on the character and appearance of the locality and on living conditions for neighbours. Accordingly, the appeal is dismissed and planning permission is refused.

D Cramond

INSPECTOR