



Appeal Decision

Site visit made on 27 September 2024

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th December 2024

Appeal Ref: APP/Z1775/W/24/3338666

35 Pembroke Road, Portsmouth, PO1 2NS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Vivo Defence Services Ltd against the decision of Portsmouth City Council.
 - The application Ref is 23/00244/FUL.
 - The development proposed is described as Change of Use from Residential Dwelling to Governmental Offices. New Car Park Layout.
-

This decision is issued in accordance with section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes that issued on 28 October 2024.

Decision

1. The appeal is allowed and planning permission is granted for Change of Use from Residential Dwelling to Governmental Offices and New Car Park Layout at 35 Pembroke Road, Portsmouth, PO1 2NS in accordance with the terms of the application, Ref 23/00244/FUL. and the plans submitted with it, subject to the conditions set out in the attached conditions schedule.

Preliminary matters

2. The appellant states on the appeal form that their description on the submitted application form has not changed, although notes that the Council has used a different description. Whilst the appellants description is not as detailed as the council's, it is concise and clearly identifies the main elements of the proposal. Accordingly, I have referred to the appellants description in this decision.
3. As pointed out by the appellant, the submitted site plan (Drwg DIO/35Pem/003 Rev.A) only shows three trees to be removed whereas the arboricultural drawings numbered 230217/TRP and 230217/TPP clearly show that five trees would be removed. The appellant has confirmed that the arboricultural drawings are correct and that the proposed replacement planting is also as set out in the arboricultural assessment. The councils committee report clearly refers to the proposed replanting and the recommendations of the arboricultural assessment, which states in Section 6.1 that seven new trees would be planted within the front and rear gardens of the property. The appeal has been determined on this basis.
4. The decision notice refers to paragraphs 104–109 and 199–208 of the National Planning Policy Framework 2021. This has now been replaced by the National

Planning Policy Framework dated December 2023 (the Framework). Whilst the content of these paragraphs remains unchanged, they have been renumbered as 108–113 and 205–214. For the avoidance of doubt, I confirm that in this decision I refer to the paragraph numbering in the current Framework.

Main Issues

5. The first main issue is the effect of the proposal on the setting to the Old Portsmouth Conservation Area (OPCA). The second main issue is the effect of the proposal on the provision of sustainable transport options.

Reasons

Setting of the OPCA

6. The OPCA occupies a key position at the mouth of Portsmouth Harbour and comprises the old town of Portsmouth. The harbour area; various landmark buildings; imposing three storey Georgian houses; two-storey houses fronting narrow streets; large expanses of soft landscaped open spaces and grassed areas; and an abundance of trees all contribute to the character, appearance and significance of the OPCA.
7. Pembroke Road is a busy distributor road that is characterised by a mixture of residential, commercial and leisure uses. Whilst located outside the OPCA, the appeal site borders it on two sides and is located close to the Grade II listed railings around Governors Green. The appeal site fronts onto Pembroke Road and abuts part of Pembroke Close and the side/rear of several modern and older small residential terraces.
8. The appeal site forms part of Pembroke Park, which is a military housing estate constructed in the 1960's/1970's and the appeal property comprises a detached house that occupies a spacious plot. Its front garden includes a spacious driveway and parking area, a detached flat roofed garage and an area of lawn, which includes a number of trees. The property was used until 2020 as an official residence for a senior Royal Navy Admiral.
9. The existing trees within the front garden include six Norway Maple and one Bay Laurel, as well as a Privet hedgerow adjacent to the front boundary of the site. The council has confirmed that none of these trees are the subject of a Tree Preservation Order.
10. Collectively paragraphs 203, 205, 206 and 208 of the Framework state that in determining applications local planning authorities should take account of the desirability of new development making a positive contribution to local character and distinctiveness. When considering the impact of a development on the significance of a designated heritage asset great weight should be given to its conservation. This is irrespective of whether any potential harm amounts to substantial or less than substantial harm to its significance. Any harm to a heritage asset or from development within its setting, requires clear and convincing justification. Where a proposal would lead to less than substantial harm to a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
11. Consistent with this policy PCS23 of the Portsmouth Plan-Portsmouth Core Strategy (2012) (PCS), states that new development should relate well to the history of Portsmouth, particularly the conservation areas and should protect

and enhance the city's historic townscape. Development should be appropriate in scale, layout, appearance and materials in relation to its context. Whilst this policy does not specifically refer to trees, they can be an integral part of a proposal. Paragraph 135 of the Framework similarly states that new development should be of a high standard of design and should be sympathetic to local character and history, including the surrounding built environment and landscape setting. It should establish or maintain a strong sense of place whilst optimising the potential of the site.

12. It is noted that no concerns have been raised to the proposed physical changes to the appeal building and the proposed access ramp. Having regard to the minor nature of the proposed changes they would not have a material impact on the character and appearance of the building or its setting. Similarly, whilst the extent of hard-surfacing within the front garden would be increased, grassed areas would be retained adjacent to the front and side boundaries and the existing garage, which is singularly unattractive and utilitarian in appearance, would be removed. For these reasons the extended area of hard-surfacing would not have a neutral impact on the character and appearance of the site, the street scene, to the setting of the OPCA.
13. The proposal would result in the loss of an existing dwelling and so would have a very modest impact on the supply of homes in Portsmouth. However, the property is under the control of the MoD and so does not contribute to the general housing need. As pointed out by the council its loss could potentially impact on the demand for staff accommodation, although equally there may be sufficient MoD accommodation to meet demand. Having regard to the operational needs of the MoD, including the use of the appeal premises for the management of MoD property including the staff accommodation in the area, I am satisfied that the loss of a dwelling in this instance is justified.
14. Regarding trees, the guidelines in the Old Portsmouth Conservation Area No.4 – Guidelines for Conservation (OPCAG), states that the City Council will encourage additional tree planting on private land and will encourage new and replacement planting of appropriate species to help maintain and enhance the character of the area. The existing trees on the appeal site soften and make a valuable contribution to the character and appearance of the appeal site and the setting to the OPCA. However, one of the trees has a life expectancy of less than 10 years and five of the trees have a landscape categorisation of C. This includes trees present in groups but without this conferring on them greater collective landscape value and/or trees offering low or only temporary landscape benefits. The only tree in the front garden with a higher landscape categorisation occupies a prominent position at the side of the building and is to be retained. T6 which is a category C Norway Maple (*Acer platanoides*) is also to be retained. It occupies a prominent position when viewed from the entrance to the site.
15. To compensate for the loss of one Bay Laurel and four Norway Maple trees and in accordance with the OPCAG guidelines the proposal includes the planting of 7 new trees within the front and rear gardens. This presents the opportunity to plant appropriate native species in prominent positions within the gardens where they would make a valuable contribution in the future to the setting of the building, the OPCA and the treed amenity land to the rear of the appeal site. The replacement planting is a matter that would need to be secured through the imposition of a planning condition.

16. It is unclear from the documentation submitted whether the boundary railings, gates and gate piers around the appeal site fall within the OPCA, or are within its immediate setting. Either way these features make a valuable contribution to the historic street scene and the OPCA. With the proposal these features are fully retained and the proposed parking spaces would be physically separated from the front railings by the existing Privet hedge and a grassed strip. As shown on drawing No. 230217/TRP four of the proposed trees would be planted within the grassed area at the front of the site. The existing gates and gate piers would continue to serve the existing access drive.
17. For these reasons the proposal would not have a material impact on the character and appearance of the boundary railings, entrance gates and piers, and the contribution they make to the significance of the OPCA. Overall, the proposal would have a neutral impact on the significance of the OPCA, with the potential to have a positive impact in the medium to long term taking into account the demolition of the existing garage and the siting of the proposed replacement trees.
18. I conclude on the first main issue that the proposal would preserve the character and appearance of the OPCA and its setting and would not harm its significance. Accordingly, the proposal complies with PCS Policy PCS23 and paragraphs 135 and 205–214 of the Framework.

Sustainable transport

19. Concerns have been raised by the council and residents that the number of parking spaces is excessive and would fail to promote sustainable modes of transport. Also, that the proposed use would generate excessive traffic which would have a harmful effect on road safety and the availability of on-street parking spaces in the vicinity of St Jude's School.
20. PCS Policy PCS17 seeks to reduce the need to travel and to provide a sustainable and integrated transport network. This includes improved walking, cycling and integration with other modes of transport.
21. Collectively paragraphs 109–113 of the Framework seek to minimise transport related adverse environmental impacts and to promote sustainable modes of transport. Parking standards should take account of accessibility, the type and mix of development, the availability of public transport, local car ownership levels and the need to ensure adequate provision of spaces for charging plug-in and other ultra-low emission vehicles. Maximum parking standards should only be set where there is clear and compelling justification.
22. The Council's Parking Standards and Transport Assessments (July 2014) Supplementary Planning Document (SPD), does not limit the number of parking spaces for non-residential developments. However, parking provision should be proportionate to the type of land use and the scale of development proposed.
23. The proposal is for a small-scale Class E(g)(i) office use ¹ which extends to some 199m² and which would provide space for the management and administration of MoD properties. The application documentation states that five members of staff would be based at the offices and the premises would include three modest sized meeting rooms/areas.

¹ Any operational or administrative purposes

24. The site is located within an urban area that is close to bus stops, although some 1.4 kilometres from the closest main line railway station. It is also within easy walking and cycling distance of an expansive area of MoD accommodation and the proposal include secure on-site cycle storage. Notwithstanding this, staff and contractor representatives may well need to travel by car between the proposed office and various MoD and other sites. As such it is reasonable for on-site parking to be provided to meet such need and for provision to also be made for disabled parking and the provision of electric car charging spaces, which would encourage the use of cleaner energy cars.
25. Taking this into account the proposed 13 parking spaces is proportionate and should be sufficient to meet the normal parking demands the proposal would generate. It would help ensure that the proposal would not add to the demand for on-street parking along Pembroke Road, including that generated by the parents of children attending St Jude's School and visitors to the area.
26. For these reasons I find that the level of on-site parking provision is reasonable. Due to the location of the appeal site and the transport options and facilities provided the proposal would result in a good choice of transport options for staff and visitors.
27. Reference has been made to a 'School Street' Pedestrian and Cycle Restricted Zone. As part of this a Traffic Regulation Order (RTO), has been introduced for a trial period along the roads close to St Jude's School. This includes the entrance to Pembroke Close where the access to the appeal site is located. The RTO prevents the use of Pembroke Close by cars between the hours of 8.15am to 9am and 2.45pm to 3.30pm Monday to Friday, other than by permit holders.
28. The appellant has stated their willingness to produce a Traffic Management Plan, which would require site meetings to take place outside the key times for school traffic. This would address the concerns raised and is a matter that would be satisfactorily dealt with by condition. Similarly, as other Class E uses could generate more traffic and potentially more activity and noise, a condition which restricts the use of the premises to Class E(g)(i) use would be required, both for reasons of road safety and to protect the living conditions of nearby residents.
29. Subject to the above and given urban location of the site, the busy nature of Pembroke Road, the modest size of the proposal, and the various transport options available, the proposal would not have a material impact on traffic levels or highway safety within Pembroke Road and the surrounding area. As stated in paragraph 115 of the Framework development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
30. For these reasons I conclude the second main issue that the proposal would make appropriate provision for sustainable transport options and complies with PCS Policy PCS17 and paragraphs 109-113 of the Framework.

Other matters and conditions

31. The rear wall of the existing garage forms part of the boundary between the appeal site and the adjacent dwellings in Chatham Drive. As the removal of

the existing garage forms an integral part of the proposal, the boundary between the appeal site and adjacent dwellings in Chatham Drive would need to be modified or replaced for reasons of security and privacy. As stated by the council, this is a matter that could be satisfactorily dealt with by the imposition of a planning condition.

32. Concern has been expressed that any smoking outside the building by staff and visitors should not block the pavement or have an adverse impact on the living conditions of local residents. In the interests of pedestrian safety and to protect the living conditions of local residents I agree that a dedicated smoking area should be allocated in a position where it would not obstruct the pavement or result in any nuisance for local residents. This is a matter that could be dealt with by the imposition of a condition.
33. In addition to the conditions referred to above, the council has suggested the imposition of conditions relating to tree planting, details for the proposed cycle store and adherence to the submitted drawings. These conditions are necessary to protect the character and appearance of the area; to protect the living conditions of the occupiers of the adjacent dwellings in Chatham Drive, and to promote sustainable forms of transport.
34. I have slightly amended the wording of some of the conditions suggested by the council in the interests of completeness, precision and enforceability. I also consider that conditions relating to the installation of the proposed car charging points and the surfacing of the parking and turning area are necessary. This is in the interests of promoting the use of greener energy and to ensure that the parking area respects the character and appearance of the site and the setting of the OPCA, as well as facilitating adequate surface water drainage.
35. Both the council and the appellant have been consulted and have raised no concerns relating to these changes to the Council's suggested list of conditions.

Conclusion

36. Having regard to the conclusions on both main issues and taking all other matters into account, the appeal is allowed subject to the conditions set out in the schedule below.

Elizabeth Lawrence

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 2) Unless agreed in writing by the local planning authority, the development hereby permitted shall be carried out in accordance with the following approved drawings: Proposed Office Plans & Elevations DIO/35Pe, 002A, Site Plan - Proposed Car Parking Layout - DIO/35Pem 003A (other than in relation to the number of trees to be removed), Tree Retention Plan 230217/TRP, Tree Protection Plan 230217/TPP and Tree Constraints Plan 230217/TCP.

- 3) No groundworks shall take place until the tree protection measures shown on drawing No. 230217/TPP are in place and all works shall be carried out strictly in accordance with the tree and hedge protection measures set out in Section 7 of the Arboricultural Assessment Ref 230217 rev00 dated 15 February 2023.
- 4) Details of the location, species, size and planting specification for the replacement tree planting identified in section 6.1 of the Arboricultural Assessment Ref 230217 rev00 dated 15 February 2023 shall be submitted to and approved in writing by the local planning authority. The planting shall be carried out in full accordance with the approved details within the next planting season or within 12 months of the completion of the development hereby permitted whichever is sooner; and any trees which within a period of 5 years from the completion of the planting, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) Prior to the demolition of the existing garage, details of the replacement boundary treatment between the site and the adjacent dwellings in Chatham Drive shall be submitted to and approved in writing by the Local Planning Authority. The approved boundary treatment shall be implemented in accordance with the approved details prior to the first occupation of the development hereby permitted and shall thereafter be retained for the duration of the development.
- 6) Prior to the first occupation of the development hereby permitted full details of the proposed cycle storage facilities shall be submitted to and approved in writing by the local planning authority and fully installed in accordance with the approved details. Thereafter the cycle storage facilities shall be retained for the storage of cycles at all times.
- 7) Prior to the first occupation of the development hereby permitted full details of a dedicated smoking and vaping area within the site shall be submitted to and approved in writing by the local planning authority and fully installed in accordance with the approved details. Thereafter the area shall be retained for its stated purpose.
- 8) Prior to the installation of the proposed parking spaces hereby permitted full details of the proposed hard surfacing materials shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to the first use of the office accommodation hereby permitted.
- 9) The premises shall be used for uses within Use Class E(g)(i) of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 and for no other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), unless given prior written consent of the Local Planning Authority.
- 10) The development hereby permitted shall not be occupied until the electric vehicle charging points hereby permitted have been fully installed and made available for use and shall thereafter be maintained in working order.

- 11) Prior to the first occupation of the development hereby permitted a Traffic Management Plan, which addresses accessing on and off-street parking spaces generated by the use hereby permitted, during the hours of 8.15am to 9am and 2.45pm to 3.30pm Monday to Friday has been submitted to and approved in writing by the local planning authority. The use shall be carried out in accordance with the approved details.