



Appeal Decision

Site visit made on 12 February 2025

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th February 2025

Appeal Ref: APP/Z1775/W/24/3347403

22 Granada Road, City of Portsmouth, Southsea PO4 0RH

- 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 Ubiquence Limited against the decision of Portsmouth City Council.
 - The application Ref is 24/00151/FUL.
 - The development proposed is the conversion of the lower ground floor to form 1no 2-bed flat.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council is currently preparing a new Local Plan and consultation on a pre-submission version has now closed. The Council has drawn my attention to Policy PLP31 of the Emerging Local Plan as being relevant to the appeal scheme. However, given its stage, there is a high degree of uncertainty that the Policy PLP31 will be unchanged when the emerging Local Plan is adopted. Therefore, I afford modest weight to it within my determination of this appeal.

Main Issue

3. The main issue is whether the proposed development would be safe from flooding.

Reasons

4. The appellant disputes the appeal site comprises a basement, instead referring to it as a lower ground floor. However, no authoritative definition of a basement is before me. Irrespective of this, the flood risk vulnerability classification¹ to be attributed to the proposed development hinges on whether it comprises a basement dwelling. The proposed development would create a self-contained dwelling that is entirely separate from the rest of the property, with a floor level predominantly below ground, including the main entrance. These features lead me to conclude that, for the purposes of an assessment of flood risk, the proposed development would result in the creation of a basement dwelling.
5. As confirmed within the site-specific Flood Risk Assessment² (FRA) submitted with the planning application, the majority of the site lies within the Environment Agency's (EA) Flood Zone 3. In Flood Zone 3, there is a high probability of flooding from rivers and/or the sea. In regard to the appeal site, the risk relates to tidal

¹ Annex 3 of the National Planning Policy Framework (the Framework)

² Ref: 656/MME/22 Granada Road, Southsea/FRA prepared by Environmental Assessment Services Ltd, dated December 2023

flooding, even if the site was not affected by the major flooding and extreme weather events in 2000 and 2012/2013.

6. Whilst my attention has been drawn to where flood defences have been installed nearby, this does not mean that the area which it defends from flooding is safe, only that while it is maintained the risk is reduced. Furthermore, no details are before me confirming the impact these flood defences have on the risk of flooding to the site. In terms of other sources, the FRA concludes that the risk of flooding from rivers, surface water, ground water, sewers, and reservoirs is low. I have no compelling reasons before me to dispute this.
7. The Framework defines basement dwellings as a 'highly vulnerable' use which, as set out in the Planning Practice Guidance (PPG), is a form of development that should not be permitted in Flood Zone 3³. Noting that the FRA concludes the level of vulnerability of the appeal site would not be increased as a result of the proposed development, this is based on its definition as a dwelling, as opposed to a basement dwelling. Dwellings are listed as a 'more vulnerable' use and are not prohibited in Flood Zone 3.
8. The FRA indicates passive flood protection measures such as a concrete ground floor with waterproof membrane, sealed service ducts and non-return valves on sewer connection should be incorporated in the proposed development. In addition, it is suggested that active floor protection measures such as barriers for doorways, could be included. However, aside from the lack of certainty regarding whether these measures would be implemented were I to allow this appeal, I am concerned that safe evacuation from the basement dwelling would not be possible during a flood event due to the low level of the main entrance. Although reference is made in the FRA to the potential to incorporate an escape route to the floor above, this does not form part of the proposal before me. No other escape routes have been proposed.
9. Other measures, such as relying on the EA's flood warning systems, are not sufficient either alone or in combination with the passive and active measures indicated above to justify the proposed development within Flood Zone 3.
10. My attention has been drawn to the use of the basement in the adjoining property at 24 Granada Road (No.24) comprising two separate flats. However, the evidence before me indicates that the basement previously comprised a single flat. At the time the conversion of No.24 was approved therefore, its use as a self-contained basement flat had already been established. The EA did not object to the development. On this basis, it represents a materially different circumstance to the appeal scheme, even if the proposed development comprises fewer bed spaces.
11. Whilst there are further examples of the residential use of basement levels in other properties within the area, limited detail of these has been provided. Consequently, it is unclear if these comprise self-contained basement dwellings, the date of and planning regime in place at the time they were approved and the flood risk of the property. As such, their presence does not weigh in favour of the grant of planning permission in this case.
12. Despite its location within an established residential area and the absence of external alterations included in the appeal scheme, I conclude that the proposed

³ Paragraph: 079 Reference ID: 7-079-20220825

development would not be safe from flooding. It would conflict with Policy PCS12 of the Portsmouth City Local Plan 2001-2011 which sets out how the flood risk management hierarchy will be applied to reduce flood risk.

13. The current draft of Policy PLP31 of the emerging Local Plan provides a stronger resistance to development comprising basement dwellings. Despite the modest weight I give to it in my decision, nevertheless it provides no support to the grant of planning permission in this case.

Other Matters

14. The appeal site lies within the East Southsea Conservation Area (ESCA). I am therefore required by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. I consider the significance of the ESCA, insofar as it relates to the appeal site, is predominantly derived from its residential use and due to the variety of ages and vernaculars of the built form. This is reflected along the appeal site side of Granada Road with period semi-detached and terraced properties, with the occasional more modern dwelling, displaying limited consistency in their height, materials, features and details. As the proposed development comprises a lack of external alterations and comprises a residential use, it would preserve the character and appearance of the ESCA.
15. The appeal site is located within the catchment of the Solent Special Protection Areas (SPAs), European Designated Sites afforded protection under the Habitats Regulations. If the circumstances leading to the grant of planning permission had been present, I would have considered the impact of the development on the Solent SPAs, with reference to the signed S111 Agreement provided. However, as I am dismissing the appeal on the main issue above, it is not necessary for me to consider this matter further.
16. The evidence before me indicates that the Council is unable to demonstrate a five-year supply of deliverable housing sites in accordance with the Framework. However, at paragraph 11di, the Framework states that the presumption in favour of sustainable development does not apply where the application of policies in the Framework, including those relating to areas at risk of flooding (footnote 7) provide a strong reason for refusing the development.
17. Having regard to my findings that the development would not be safe from flooding, the application of the Framework's policies regarding areas at risk of flooding provide a strong reason for refusing the development. Consequently, the presumption in favour of sustainable development does not apply in this case.

Conclusion

18. The proposed development is contrary to the development plan as a whole and material considerations, including the provisions of the Framework, do not indicate that the proposed development should be determined other than in accordance with it. For the reasons set out above and having regard to all relevant matters raised, I conclude that the appeal should be dismissed.

Juliet Rogers

INSPECTOR