



Appeal Decision

Site visit made on 15 August 2025

by **D R Kay BA Dip.Arch RIBA**

an Inspector appointed by the Secretary of State

Decision date: 17 November 2025

Appeal Ref: **APP/Z1775/W/24/3357939**

Hardstanding by Garages 1-7, Walford Road, Portsmouth, Hampshire PO6 4AL

- 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 Mr R. Stanley against the decision of Portsmouth City Council.
 - The application Ref is 24/00654/FUL.
 - The development proposed is the construction of single storey two-bed dwellinghouse with associated works.
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Decision

1. The appeal is allowed, and planning permission is granted for the construction of single storey two-bed dwellinghouse with associated works at Hardstanding by Garages 1-7, Walford Road, Portsmouth, Hampshire PO6 4AL in accordance with the terms of the application, Ref 24/00654/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. The fourth reason for refusal of the Council's decision notice, related to a likely significant effect of the proposal on several National and Internationally protected Habitat Sites, and a lack of submitted information regarding the mitigation of such effects. The appellant has submitted a signed and dated Unilateral Undertaking with the appeal documentation, providing a method of mitigation for such effects on Habitats Sites. As Competent Authority for the purposes of the Habitats and Species Regulations 2017 (as amended) (the Habitat Regulations) in relation to this appeal, I deal with this matter in more detail later.

Main Issues

3. The main issues are, i) the effect of the proposal on the character and appearance of the area, and ii) the living conditions of neighbouring occupiers, particularly at 34 and 36 Abbeydore Road, having regard to outlook, and iii) the safety of pedestrians and iv) the effect of the proposal on the integrity of Nationally and Internationally designated Habitat Sites.

Reasons

Character and Appearance

4. The appeal site is situated in a plot of land which is to the rear of gardens of properties on Kingsland Close, which bound the appeal site on two sides, and Abbeydore Road to the other. The site is also adjacent to a communal parking and garage site, which takes its access from Walford Road. The site itself is broadly

- level, but there is a difference in level with properties which surround it, the Kingsland Close properties to the north being raised in level above the appeal site, and the Abbeydore Road properties to the south being at a lower level.
5. The properties which surround the appeal site are two-storey in nature, consisting either of runs of terraces or pairs of semi-detached dwellings. The properties were originally built as Council houses but are now predominantly in private ownership. Several properties have been subject to alteration, particularly to their rear elevations, where a variety of single or two-storey extensions have been constructed. Others, such as 34 Abbeydore Road (No34), have erected significant structures within their gardens. The character of the area is therefore one of a mature residential neighbourhood which is undergoing change.
 6. The appeal proposal would introduce a single storey, flat roofed dwelling within a vacant plot of land. The dwelling would sit alongside, the common boundary of the site with the rear gardens of 34 and 36 Abbeydore Road (No36), separated by a 2m high masonry boundary wall. The siting of the appeal proposal results in roughly equal separation distances between its elevations and the main rear elevations of the surrounding properties. It would, therefore, sit centrally within the space created by the surrounding two-storey buildings. Space would be provided for parking and there would be a small private garden, which I find would be proportionate to the size of the property. In the context of the immediately surrounding area, in which existing properties are closely spaced, the proposal would not appear unduly cramped.
 7. The eaves level of the proposal would be predominantly 2.65m in height, with a slightly higher (3.3m) wall on one elevation. These heights would not be out of keeping with the heights of the adjacent garages or garden building structures present, against which the proposal would be viewed from the public realm and parking forecourt. I conclude it would, therefore, maintain a level of openness within the site. Its relationship with the surrounding properties and the garage court would allow it to integrate into the urban grain and character of the area. Its use, as a residential dwelling, would also be compatible with the use of the surrounding dwellings.
 8. In coming to this view, I have had regard to the Council's decision on the most recent application on the site¹, for a single storey building encompassing garaging, which received conditional approval in March 2023. It is, therefore, both extant at the time of determination of the appeal, and a material consideration. That building would occupy the same position and footprint as the proposal and would have a higher pitched roof. It would, if implemented, have a similar, if not greater, visual impact than the proposed dwelling.
 9. My attention has been drawn to other developments in parking court areas in the vicinity of the appeal site, namely off Credenhill Road, off Kenchester Close and off King Richard Close. I viewed these examples at my visit. The examples all demonstrate the Councils acceptance of the principle of re-development of parking courts in the area for residential purposes. The examples also demonstrate that development can be successfully accommodated in former parking courts, with close relationships between existing and new dwellings in such developments.

¹ 22/01395/FUL

10. For the above reasons, I conclude that the effect of the proposal on the character and appearance of the surrounding area would be acceptable. I find no conflict with Policy PCS23 of The Portsmouth Plan 2012 (Portsmouth's Core Strategy) (the Local Plan), which requires, among other things, that development is well designed and in particular, respects the character of the city.

Living Conditions

11. The properties to the south on Abbeydore Road are situated at a lower ground level than the appeal site, with a 2m high boundary wall separating them. There is around 18m separation distance between the rear elevation of No34 and that of the proposal. No34, the closest property to the proposal, has a significant garden building adjacent to the boundary with the appeal site, extending for much of the width of the rear garden. As a result, the mass of the appeal proposal would be significantly, if not totally masked by the existing development and boundary treatments between the properties, when viewed from ground level. I therefore find that the proposal would not detrimentally affect the outlook for occupants of No34, nor would it be overbearing or create an increased sense of enclosure.
12. The distance between No36 and the appeal proposal is greater than that between No34 and the appeal proposal. As a result of the separation distance, the single storey nature of the proposal, the relative difference in floor levels and the intervening boundary treatment, I find the proposal would not detrimentally affect the outlook of the occupants of No36, nor would it be overbearing or create an increased sense of enclosure. Other properties on Abbeydore Road, have greater separation distances from the proposal than No34 and No36, and would not be detrimentally affected by the proposal either.
13. The terrace of properties on Kingsland Close to the north, sit in an elevated position from the appeal site. Owing to this elevation, the separation distance between them and the appeal proposal and the restricted height of the proposed dwelling, I find the appeal proposal would not harm the outlook from, nor would it be overbearing or create an increased sense of enclosure to the occupants of this terrace of properties.
14. Examining the relationship with the properties to the east of the appeal site at 1 and 2 Kingsland Close ((No1) and (No2)), the combination of the single storey height of the proposal and the intervening distance, between its eastern elevation and the rear elevations of No1 and No2, would be such that the appeal proposal would not harm the outlook of, nor would it be overbearing or create an increased sense of enclosure, to the occupants of No1 and No2.
15. The appeal proposal's principal windows to habitable rooms are situated within its end elevations. The windows facing west, which serve bedroom areas, overlook the adjacent parking forecourt. This would provide a level of surveillance to the parking forecourt which could provide improvements in security. Windows in the eastern elevation would look onto the proposal's patio and garden area, with adequate separation distance to the rear elevations of No1 and No2, thereby providing an acceptable outlook for future occupants of the proposal.
16. The Council have raised concerns about the safety of future occupiers of the proposed dwelling, who would be required to access the site through the unlit parking forecourt. The parking forecourt is provided for residents of surrounding properties to park their vehicles. When visiting the area, I noticed a lamp standard

which will illuminate a significant section of the access lane, but the parking forecourt itself is unlit.

17. However, the parking forecourt is under the ownership and control of the Council. If the Council have concerns for the safety of users of the parking forecourt, then this is a wider issue, for all users of the parking forecourt, not just future occupiers of the proposal, which could be addressed by the Council. I therefore do not consider that it would be sufficient reason for refusal of the proposal.
18. For the above reasons, I conclude that the proposal would provide acceptable levels of outlook for occupiers of No34 and No36 Abbeydore Road and other surrounding occupiers. I find no conflict with Policy PCS23 of the Local Plan, which requires, among other things, that development is well designed and protects the amenity of, and provides a good standard of living environment for neighbouring occupiers, as well as future residents and users of the development.

Pedestrian Safety

19. The Highway Authority (HA) have submitted no comment in relation to the application at appeal. The Council have referred to comments made by the HA to a previous application² in 2018, for a two-bedroom bungalow on the appeal site, to provide background to their decision. They note that there has been no change to Council policy and guidance in relation to parking and access since then. Accordingly, they consider the comment from the HA for this previous application to be valid.
20. The Council consider the proposal would result in intensification of vehicular use on the site, and because of substandard pedestrian visibility at the existing entrance, the proposal should be refused. They raise no objection to the level of vehicle or cycle parking provision, or EV charging provision provided in the proposal.
21. For vehicles emerging from the access lane onto Walford Road, visibility is restricted by existing boundary fences and hedges. Care is needed as there may be pedestrians and other road users using the footpath. However, the site is already in use, albeit not very intensively, with no indications that there have been any safety problems at the junction. The proposal would result in a small increase in activity from that which currently exists. Additional vehicle numbers would be small, and traffic speeds likely to be very low.
22. Furthermore, an application for a building containing two double garages³ on the appeal site, was approved in March 2023, and is therefore extant. This extant approval post-dates the application the Council referenced in their delegated report, by several years, and is material to the consideration of the appeal.
23. The extant garage application provides for the parking of four vehicles on the appeal site, which would produce a corresponding number of vehicle movements to the highway network per day, via the existing access from Walford Road. The appeal proposal would provide two vehicular parking spaces, half the number of spaces, which would likely result in a correspondingly lower number of potential vehicle movements being generated per day. This would represent a material reduction in the vehicle movements from the site via the existing access to Walford Road, than the extant approval.

² 18/02086/FUL

³ 22/01395/FUL

24. For the above reasons, I conclude that the proposal would maintain the safety of pedestrians. I find no conflict with Policies PCS17 and PCS23 of the Local Plan, which requires, among other things, that development is well designed and that car parking and cycle facilities should be convenient to users.

Habitats Sites

25. The appeal site is located within the 5.6km zone of influence of the following National and Internationally designated Habitat Sites: *Portsmouth Harbour Special Protection Area (SPA)/Ramsar site; Chichester and Langstone Harbours SPA/Ramsar Site; Solent and Isle of Wight Lagoons Special Area of Conservation (SAC); Solent Maritime SAC; Solent and Southampton Water SPA; Solent and Dorset Coast SPA.*
26. These Habitat Sites are all recognised for their National and International importance for nature conservation. They host protected priority habitats and species including Dark-bellied brent goose, Eurasian teal, Ringed plover, Black-tailed godwit, Red-breasted merganser, Dunlin, Mediterranean gull, Sandwich tern, Roseate tern, Common tern, Little tern, European honey-buzzard, Hen harrier, Eurasian hobby, European nightjar, Woodlark, Dartford warbler and Wood warbler, together with other typical species of wetland, mudflat, sandflats and coastal lagoons, as well as forest and heath areas.
27. Evidence shows that these protected Habitat Sites are under significant pressure from an increasing number of people living nearby. As the population grows, urbanising and increased visitor number effects from human pressures and damage caused by domestic pets have the potential to cause ongoing adverse effects on the protected habitats and species. Without mitigation, the proposal, in combination with other development in the area, would be likely to have a significant effect on the nearby Habitat Sites.
28. Portsmouth City Council (PCC), together with Natural England (NE), other local Councils, and several nature conservation stakeholders, have formed The Solent Recreation Mitigation Partnership (SRMP). This seeks a method of mitigating the recreational effects of development on the numerous protected Habitat Sites within the area, by the application of a financial contribution from developers for mitigation schemes within the area. The Partnership produce a strategy document called 'Bird Aware Solent' (BAS) which defines the mitigation process and contribution requirements.
29. However, the BAS mitigation scheme does not deal with the mitigation of the effects of increased nutrient generation from development. The Solent and Southampton Water SPA and Solent Maritime SAC are also Designated Nitrogen Sensitive Catchment Areas under the Water Industry Act 1991. There is evidence of high levels of nitrogen and phosphorus in the Solent Water catchment environment, including evidence of eutrophication (the process by which a body of water becomes progressively enriched with minerals and nutrients) within these internationally designated sites, which affects the feeding grounds for several nationally and internationally important wading birds.
30. PCC have an Interim Updated Nutrient Neutral Mitigation Strategy for New Dwellings (2022) (the INMS), to provide nutrient mitigation via by the application of a financial contribution from developers for mitigation schemes within the area. The INMS incorporates the NE methodology and updated Nutrient Budget Calculator, to

determine the level of the financial contribution, based on the extent of the development.

31. In accordance with the Habitat Regulations, the Council carried out a Habitats Regulations Assessment (HRA) and an Appropriate Assessment (AA), and consulted Natural England, during the course of determining the application. The Council determined that the increased recreation disturbance effects of the development, could be suitably mitigated by contribution to the SRMP and calculated the level of required contribution. They also determined that increased nutrient outputs could be mitigated by contribution to the INMS, also calculating the level of contribution required by the proposed appeal development.
32. Natural England were consulted under Regulation 63(3) of the Habitat Regulations. Their response confirmed that they were content that the SRMP and INMS measures are sufficient to avoid any adverse impact on the integrity of the relevant Habitat Sites and features. Further, they confirmed that they were content with these measures being secured by way of a Unilateral Undertaking, under s106 of the Town and Country Planning Act 1990. They raised no further concerns. Having reviewed the evidence provided, I am satisfied that the approach is robust.
33. Taking the above into account, I find that the mitigation measures identified are sufficient to avoid harmful effects of the appeal proposal, on the conservation objectives of nearby Habitat Sites. Further, they can be appropriately secured through the Unilateral Undertaking provided by the appellant. I am therefore, satisfied that the proposal would not result in a likely significant effect to these Habitat Sites, and satisfies the requirements of the Habitats Regulations.

Other Matters

34. Evidence submitted identifies that the appellant is registered disabled, and that a reason for pursuing the application, is to provide single-storey, accessible accommodation for the future, in a location which would be close to their family support network. I have therefore given due regard to the Public Sector Equality Duty for persons with protected characteristics under s149 of the Equality Act 2010. The proposal would provide accommodation which would assist the appellant in meeting their long-term needs.
35. The proposal would be a self-build/custom-build development and would therefore contribute to the Council's obligations to provide for this type of development. This is a further benefit of the scheme, which can be secured through the submitted UU.

Planning Obligation

36. The appellant has completed a deed of Unilateral Undertaking under s106 of the Town and Country Planning Act 1990, dated 20 December 2024, which includes an obligation for a financial contribution to the Council for the Solent Recreation Mitigation Partnership (2017) (the SRMP) contribution of 1 x £671.00 (index linked) for a two-bedroomed dwelling towards recreational mitigation. The undertaking also includes an obligation for a financial contribution to the Council of £3,575.00 for the Interim Updated Nutrient Neutral Mitigation Strategy for New Dwellings (2022) (the INMS), for nutrient output mitigation.
37. I have considered this in light of the statutory tests contained in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010. I am satisfied that the

obligation is necessary to make the development acceptable in planning terms and is directly related to the development. The SRMP and INMS require a financial contribution towards mitigation of the effect of development on protected Habitat sites. The information before me indicates the figures are based on standard methods of calculation and that the parties have agreed to the above figures. I have little basis to find otherwise. Hence, on that basis this obligation is fairly and reasonably related to the development proposed and passes the statutory tests in this regard.

38. The application is for the development of a self-build/custom-build dwelling. Accordingly, it benefits from an exemption to the statutory requirements of the Environment Act (2021) (the EA), to deliver a mandatory biodiversity net gain of at least 10%. However, it is essential that the self-build/custom-build form of development is secured. The appellant's signed and dated deed of unilateral undertaking also defines the development as self-build and legally binds the appellant to construct and occupy the property as a self-build dwelling. This obligation is also fairly and reasonably related to the development proposed and passes the statutory tests in this regard.

Planning Balance

39. The Council have confirmed, having regard to the National Planning Policy Framework (the Framework), they can currently demonstrate a housing land supply figure of 3.3 years. This is below the 5 years required by the Framework, which would normally engage paragraph 11d, and the presumption in favour of sustainable development. However, as I have found the proposal to accord with the development plan, it is unnecessary to further consider the question of housing supply, and the presumption in favour of sustainable development contained in national policy, as this would not alter the outcome of my decision.
40. The appeal proposal would provide an additional unit of self-build accommodation which would contribute, albeit in a very small way, to the housing needs in an area with an acknowledged shortfall. It would enable the appellant, who has a disability, to stay within the area where they have support, in accommodation which would help meet their long-term needs, and would make effective use of land. These are benefits of the scheme.
41. I have identified no harms in relation to the effect of the proposal on the character and appearance of the area, the living conditions of neighbouring occupiers or pedestrian safety. Likely significant effects on nearby Habitats Sites can be satisfactorily mitigated through financial contributions, which can be appropriately secured by the submitted UU, which also secures the self-build use. Accordingly, I have found no harms with the proposal.

Conditions

42. I have had regard to the 7 conditions suggested by the Council and the comments provided by the appellant. Where necessary I have amended the wording, in the interests of precision and clarity, and in order to comply with the advice in the Planning Practice Guidance and the Framework.

43. In addition to the standard time limit for implementation, in the interests of certainty, I have attached a condition specifying the approved plans. A pre-commencement condition, which has been agreed by the appellant, is also necessary to mitigate against the risk of flooding to adjacent properties.
44. Conditions are necessary to ensure adequate provision is made for cyclists using the premises, and to ensure that the development does not exceed the scope of the Nitrate Mitigation Credits purchased.
45. Conditions are also necessary to ensure that works are undertaken in accordance with the submitted method statement and tree protection plan, and to ensure that replacement trees are planted and retained to enhance the setting of the locality.

Conclusion

46. For the reasons set out above, I conclude that the appeal proposal would accord with the development plan, read as a whole, and that there are no material considerations, including policies in the Framework, that would justify determining other than in accordance with it. Therefore, the appeal is allowed.

D R Kay

INSPECTOR

Schedule of Conditions

- 1 The development hereby permitted shall begin not later than three years from the date of this decision.
- 2 The development hereby permitted shall be carried out in accordance with drawing nos: 0750-02.001 Rev 01 - Location and Block Plans, 0750-02.002 Rev 03 - Existing Site Plan, 0750-02.003 Rev 06 - Proposed Site Plan, Ground Floor Plan and Roof Plan, 0750-02.004 Rev 03 - Existing and Proposed Indicative Elevations.
- 3 Prior to commencement, a Drainage Strategy, which provides information on exceedance routes and water travelling beneath the surface causing flood risk to properties down the hill and the proposal site, shall be submitted to and approved in writing by the Local Planning Authority. The works shall then be implemented as approved.
- 4 Prior to first occupation of the property, secure and weatherproof bicycle storage facilities for two bicycles shall be provided at the site and shall thereafter be retained.
- 5 The proposal hereby permitted shall not be occupied until written documentary evidence has been submitted to and approved in writing by the Local Planning Authority demonstrating that the development has achieved a maximum water use of 110 litres per person per day as defined in paragraph 36(2)b of the Building Regulations (2010) (as amended). Such evidence shall be in the form of a post construction water efficiency calculator.
- 6 All works of the development hereby approved, including all preparatory work, are to be undertaken in accordance with the Arboricultural Impact Assessment, Method Statement & Tree Protection Plan (18th July 2024).
- 7 A replacement tree, of standard size (2-3m high), shall be planted near the position of the tree to be felled within the planting season following removal of the existing tree. The species, size, and position are to be submitted to and agreed in writing by the Local Planning Authority. Any tree found to be dead, dying, severely damaged or diseased within five years of the completion of the building works OR five years of the carrying out of the landscaping scheme (whichever is later), shall be replaced in the next available planting season by specimens of similar size and species.

***** End of Schedule*****