



Appeal Decision

Site visit made on 28 January 2026

by **M Aqbal BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 April 2026

Appeal Ref: APP/Z1775/W/25/3374570

207-217 Copnor Road, Portsmouth PO3 5BY

- 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 Sanjay Raizada, 207 Copnor Road Limited against the decision of Portsmouth City Council.
 - The application Ref is 24/01195/FUL.
 - The development proposed is the demolition of the existing builders merchants (Class E) and the erection of a Part 3, Part 4 and Part 5 storey residential development to provide 25 Self-contained residential dwellings (Class C3). Including a scheme of hard and soft landscaping, associated refuse and recycling facilities and car parking.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council's Supplementary Matters Report and Appeal Statement refer to a voluntary £20,000 contribution towards off-site affordable housing, which the appellant had offered during the application stage as a goodwill gesture.
3. However, during the drafting of the s106 Agreement, the appellant requested that this voluntary contribution be removed, and the Council accepted that change. The executed s106 Agreement, dated 20 March 2026, which the main parties are signatories to ('the s106 Agreement') therefore no longer includes the £20,000 payment. The Council's position is that the absence of any affordable housing contribution should attract neutral weight in the planning balance, reflecting the viability evidence previously accepted. I have proceeded with the appeal on this basis.

Main Issues

4. The main issues are:
 - i) The effect of the proposal on the character and appearance of the area;
 - ii) Whether the proposal would harm the living conditions of neighbours as a consequence of any parking stress; and
 - iii) Whether the development would be likely to have a significant effect on the integrity of the Solent Marine European Sites¹ ('the Solent').

¹ Solent European Designated Sites of: (a) The Portsmouth Harbour Special Protection Area/RAMSAR Site; (b) The Chichester and Langstone Harbours Special Protection Area/RAMSAR Site; (c) The Solent and Isle of Wight Lagoons Special Area of Conservation; and (d) The Solent Maritime Special Area of Conservation.

Reasons

Character and appearance

5. The appeal site occupies a prominent plot, allocated for residential development at the wide corner junction of Copnor Road and Stubbington Avenue. It is currently underused and makes a limited contribution to local character. While the immediate vicinity is characterised predominantly by two-storey dwellings, the wider Copnor Road corridor includes a broader mix of building forms, including larger residential blocks further south.
6. The development would rise to five storeys at the corner, with the uppermost level recessed and expressed as a subordinate roof element. The Portsmouth Tall Buildings Study (2011) defines tall buildings as six storeys or more; the proposal therefore does not constitute a tall building under the Council's own definition. The design steps down towards neighbouring dwellings, incorporating a varied roofline, articulated façades and architectural bays that reflect the grain and rhythm of surrounding plots. As a result, the building would not appear as a single monolithic block but as a composition of modulated volumes with clear transition points and design cues drawn from the local vernacular.
7. The height reduces from five storeys at the corner to three storeys adjacent to existing buildings; the recessed top floor and contrasting materials reduce perceived bulk; and vertical and horizontal articulation through fenestration, parapets and brick detailing breaks down the massing. The segmented form reflects historic plot widths and established building proportions. The site's position within a wide and open junction further reduces any sense of enclosure or visual pressure, and the submitted visual material demonstrates that the building would read predominantly as four storeys from most pedestrian viewpoints, with the recessed fifth storey barely perceptible.
8. The proposal would replace a low-grade industrial site with a contemporary residential building of higher design quality. Through careful material selection, detailing and landscaping, the scheme would introduce visual interest. Features such as a high-quality brick façade, stone-effect lintels and cills, a green roof, soft landscaping and active ground-floor frontages would contribute positively to the street scene. The building would also sit further back from the junction than others along Copnor Road, providing additional visual relief.
9. Consequently, the development would not overwhelm the street scene. Instead, it would provide a focal point at a strategic intersection, and mark a transition between lower-rise residential terraces and larger flatted developments within the wider Copnor Road corridor. The scheme has been shaped by pre-application engagement, relevant design policy and an understanding of its context.
10. In this context, the proposal represents a well-considered response to its setting. Accordingly, I find no conflict with Policy PCS23 of the Portsmouth Plan (2012), which seeks well-designed development that responds positively to its surroundings through appropriate scale, form and materiality.

Living conditions of neighbours

11. The proposal scheme includes 9 off-street parking spaces, which falls short of the level expected under the Council's Parking Standards SPD (2014) ('the Parking SPD'). When assessed against those standards, the development would require approximately 32 parking spaces, resulting in a shortfall of around 23 spaces.
12. The surrounding area is predominantly high-density residential in character, with limited opportunities for off-street parking. As a result, most households rely on on-street provision, and a degree of parking pressure is an established feature of the local environment.
13. However, I am advised that the Council have declared a climate emergency and seek to encourage a modal shift away from private car ownership.
14. Furthermore, the appeal site is located in an accessible location, with two bus stops in close proximity providing services to key destinations including Portsmouth Harbour, Fratton and Havant, and Hilsea Train Station situated approximately 1.5 km to the north with regular services to London, Southampton and other nearby settlements. The site is also within walking and cycling distance of local shops and amenities. I am advised that adjacent to the appeal site are a number of low traffic cycling routes that could be utilised by residents.
15. The proposal also incorporates a package of sustainable transport measures, including secure cycle parking, electric vehicle charging provision and a Travel Plan. A Parking Management Plan would ensure that the limited on-site parking is prioritised for the larger family units, reducing the likelihood of increased overspill parking onto surrounding streets.
16. The Travel Plan sets out a comprehensive package of measures to reduce reliance on the private car. These include appointing a Travel Plan Coordinator, providing information on sustainable travel options, and offering personalised travel planning for residents, including support for disabled or visually impaired users. It promotes walking and cycling through improved cycle parking and route information, encourages car-sharing, and ensures prospective tenants understand the site's parking arrangements. The Travel Plan also guides residents and visitors on sustainable travel choices and highlights the loading and delivery layby secured through the s278 agreement. Together, these measures support a shift towards active and sustainable modes of transport.
17. The s106 Agreement, includes a Travel Plan Monitoring Fee to enable the Council to audit and enforce the provisions of the Travel Plan. This obligation is necessary to ensure that the Travel Plan is effectively implemented and monitored over time, supporting the development's aim of promoting sustainable travel choices and reducing reliance on the private car. It is directly related to the development, as the Travel Plan forms a core mitigation measure for managing transport impacts arising from the scheme. The fee is also fairly and reasonably related in scale and kind, covering only the Council's costs in monitoring compliance and securing the intended mode-shift outcomes. The obligation therefore meets the relevant statutory tests and is considered appropriate.
18. The fallback position is also relevant. The appeal site's former commercial use could generate materially higher levels of vehicular activity, including HGV movements, without the controls or amenity safeguards inherent in a residential

scheme. The Council's own highways response acknowledges that the proposed development would result in a net reduction in vehicle trips when compared with this fallback.

19. I have also been referred to a number of appeal decisions within Portsmouth where Inspectors have accepted reduced or even nil on-site parking in similarly accessible locations, finding no substantive evidence of harm to residential amenity. In each case, the availability of public transport, local services and cycle infrastructure was found to significantly reduce reliance on the private car. The circumstances of the appeal site are comparable, and in some respects more favourable, given the level of connectivity and the mitigation proposed.
20. Drawing on the above reasons, although the development would result in a shortfall in parking space provision, against the Parking SPD, that document is guidance and must be applied with regard to local circumstances. Given the appeal site's accessible location, the sustainable travel measures incorporated into the scheme, and the Parking Management Plan, reliance on the private car would be limited. While some increase in parking demand may occur, the evidence does not demonstrate that this would elevate parking stress to an unacceptable level to the detriment of the living conditions of neighbours.
21. Therefore, the proposal accords with LP Policy PCS23, which requires development to be supported by appropriate transport infrastructure and to avoid creating conditions harmful to highway safety or residential amenity.

The Solent

22. The appeal site lies within the Zone of Influence of the Solent European sites, which form a network of internationally important habitats supporting overwintering and migratory bird species. These sites are protected under the Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations").
23. Residential development within the Solent catchment contributes to increased recreational pressure along the coast, including walking and dog-walking, the cumulative effects of which can disturb protected bird species. The Solent Recreation Mitigation Strategy, delivered through the Bird Aware Solent Revised Strategy, provides a coordinated mechanism to address these impacts.
24. The appeal site also lies within the hydrological catchment of one or more European sites affected by nutrient enrichment. Additional wastewater from new residential development contributes to nitrogen loading within these designated sites.
25. Excess nitrogen entering the Solent can stimulate algal growth, degrading the ecological functioning of its habitats and reducing the invertebrate food sources on which protected bird species depend. Even small additional inputs can contribute to these cumulative effects, requiring a precautionary approach
26. As the competent authority, I am required to undertake an Appropriate Assessment ("AA") of the scheme's implications for the relevant European site(s). The AA must apply the precautionary principle and may only conclude that the development is acceptable where there is certainty that no adverse effect on site integrity would arise, either alone or in combination with other plans or projects.

27. The s106 Agreement secures a financial contribution of £15,679 towards strategic mitigation in accordance with the Bird Aware Solent Revised Strategy. This provides a clear and enforceable mechanism to address recreational impacts, and I am satisfied that this element of the reason for refusal has been mitigated.
28. The Nutrient Neutrality Statement identifies a nitrogen load of 28.39 kg/TN/year, whereas the s106 Agreement secures mitigation credits for only 22.77 kg/TN/year. I sought clarification from the main parties on this discrepancy and on the availability and deliverability of the mitigation credits referenced.
29. The Council states that the figures in the s106 Agreement reflect those used in its own AA and considers the mitigation sufficient. The appellant adopts the same position. However, the Council's AA is not before me, and in any event, I must reach my own conclusion as the competent authority. On the evidence provided, I cannot reconcile the difference between the calculated nitrogen load and the mitigation secured.
30. The s106 Agreement requires the developer to secure nutrient-neutrality credits in perpetuity before development commences, with written evidence submitted to the Council for approval. However, no defined or deliverable source of credits has been identified, and no evidence has been provided to demonstrate that such credits exist, are available, or can be secured and maintained for the lifetime of the development.
31. The appellant refers to potential mitigation via contributions to the Hampshire and Isle of Wight Wildlife Trust or similar bodies under the Council's 2022 Interim Strategy. However, no such mitigation is secured in the s106 Agreement, and no specific scheme or landholding has been identified.
32. To lawfully conclude that the proposal would not adversely affect the integrity of the Solent, I must be satisfied at the point of decision that effective mitigation is secured. The absence of a defined and deliverable source of nutrient-mitigation credits, combined with the unresolved discrepancy in nitrogen figures, leaves a fundamental evidential gap. The necessary level of certainty required by the Habitats Regulations is therefore not met.
33. Accordingly, while recreational impacts have been satisfactorily addressed, the evidence before me does not demonstrate that nutrient-neutrality mitigation would be secured in a defined, deliverable and enduring form. I cannot therefore be certain that the development would avoid adverse effects on the integrity of the Solent.
34. Even if the main parties consider the s106 Agreement adequate, this does not alter my AA. The s106 Agreement does not identify or secure any defined mitigation source. As such, an adverse effect on site integrity cannot therefore be ruled out and the proposal conflicts with LP Policy PCS13, which requires refusal where adverse effects on a European site cannot be excluded.
35. For the same reasons, the proposal conflicts with the National Planning Policy Framework ('the Framework'), which requires development to avoid unacceptable impacts on internationally designated sites.

Other Considerations

36. The Council cannot demonstrate a five-year supply of deliverable housing sites, which stands at about 4.97 years. Ordinarily, this would engage Paragraph 11(d) of the Framework. However, in this case the Framework's policies relating to designated habitats sites provide a strong reason for refusing the proposal. As such, the presumption in favour of sustainable development does not apply.
37. Nevertheless, the proposal would deliver 25 new dwellings. Given the Council's current housing land supply shortfall, this represents an important benefit in line with the Framework's objective of significantly boosting the supply of homes. The scheme would also provide social benefits through the delivery of new housing in an accessible location, with convenient access to shops, services and facilities, supporting sustainable patterns of development.
38. The development would generate economic activity during construction, and new residents would support local shops, services and facilities. In addition, the proposal would deliver environmental benefits by regenerating a long-underused brownfield site and enhancing the visual quality of this prominent corner location through a high-quality design that would improve the character and appearance of the area.
39. Overall, the proposal aligns with key national and local policy objectives, including brownfield regeneration, sustainable housing delivery and high-quality design.

Planning balance and conclusion

40. The proposal represents a high-quality design response and would not give rise to unacceptable effects on the living conditions of neighbouring occupiers, in relation to parking stress.
41. The development would provide 25 dwellings and contribute to wider regeneration objectives, offering clear environmental, social and economic benefits in an accessible location. However, such benefits cannot influence the outcome under the Habitats Regulations. In the absence of secured mitigation to achieve nutrient neutrality, I cannot be certain, on the basis of objective scientific evidence, that the proposal would not add nutrient inputs capable of adversely affecting the integrity of the Solent. Where such doubt remains, the Habitat Regulations impose a strict legal bar on granting permission, and this must be resolved before the planning merits of the scheme can be weighed.
42. As that threshold has not been met, I cannot conclude that the proposal would avoid adverse effects on the integrity of the Solent. In these circumstances, the planning balance under section 38(6) of the 2004 Act does not fall to be considered. No case has been advanced under the Article 6(4) derogation tests, and given the scale and nature of the scheme, it is not one capable of meeting them. The proposal therefore cannot lawfully be permitted.
43. For the above reasons, I conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR