



Appeal Decision

Site visit made on 13 March 2018

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th April 2018

Appeal Ref: APP/Z1775/W/17/3179828

167-169 London Road, Hilsea, Portsmouth PO2 9AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Dereck Priddy against the decision of Portsmouth City Council.
 - The application Ref 17/00111/FUL, dated 22 January 2017, was refused by notice dated 16 June 2017.
 - The development proposed is the change of use from Class A1 ground floor retail to provide 1 no. 2 bed dwelling and 3 no. 1 bed dwellings and elevation alterations.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from Class A1 ground floor retail to provide 1 no. 2 bed dwelling and 3 no. 1 bed dwellings and elevation alterations at 167-169 London Road, Hilsea, Portsmouth PO2 9AE in accordance with the terms of the application, Ref 17/00111/FUL, dated 22 January 2017, subject to the following conditions on the attached schedule A.

Main Issues

2. The main issues are the effects of the proposal on (a) the safety of the users of surrounding highway network and (b) the living conditions of future occupiers of the flats, having regard to light.

Reasons

Highway safety

3. The appeal site comprises a ground floor retail unit at the corner of London Road and Connaught Road. There is residential accommodation above. Connaught Road is a residential 'one way' road with street parking. There is some street parking outside of the appeal site on the road frontages of the site. There is further street parking available in residential streets leading off London Road. Street parking on London Road is restricted other than some areas in front of commercial units, such as the appeal site.
4. Currently the existing retail use operates during typical working hours and thus the street parking around the premises would be available for the occupiers of surrounding residential properties at times when the existing shop is closed, especially during evenings and Sundays. The Portsmouth Parking Supplementary Planning Document (SPD) 2014 sets out an expected amount of

- 4 vehicle spaces for this type of development which cannot be provided due to the constraints of the site.
5. The Council's Highway Engineer has highlighted issues of the lack of vehicle parking in the evenings and weekends in the surrounding area. Photographs of illegally parked vehicles obstructing junctions and visibility at weekends have been provided, along with details of Penalty Charge Notices served within 200m of the site. However, the lawful use of the premises is a shop and it is located within the designated Secondary Area of the North End District Centre under the Portsmouth Plan (PP) 2012. In the absence of any specific planning restrictions on the hours of operation, there could be an alternative form of retail, carried out without the need for planning permission. Such a use could place equivalent or even greater pressure on the surrounding highway network than the existing development through longer operating hours. Given the site's lawful use and location with the district centre, considerable weight is placed upon this.
 6. Furthermore, the development would be within easy walking distance of services and facilities, including shops for day to day needs and bus stops for public transport to other parts of the city. Such a consideration would reduce the need for the occupiers of the proposed development to have a private car and the justification for four vehicle spaces, especially in relation to the two proposed one bedroom flats. In this respect, the Appellant has indicated that only two occupiers of the 7 flats above the ground floor retail unit own vehicles which supports this view.
 7. For all these reasons, the development would not add significantly to the highway problems in the area and would not result in harm to the safety of the highway users in the vicinity. Accordingly, the proposal would comply with PP policy PCS17.

Living conditions

8. Much of the ground floor of the unit incorporates a glazed shopfront and the residential units would be single aspect facing south and east. The units have been laid out with kitchen and bathroom facilities to the rear, and bedroom and living/dining room to the front. The existing shopfront would be replaced with rendered walling and windows serving the rooms.
9. By reason of the planned layout, the important living areas of flats would be closest to the windows and would receive adequate daylight and sunlight given their size and number. The bathroom and kitchen areas would receive considerably less light but these areas could be provided with supplemental internal lighting. Typically, residents would spend less time in these areas and thus, their living conditions would not be adversely affected. For all these reasons, the proposal would comply with PP policy PCS23.

Other matters

10. There would be a likely significant effect on the internationally important interest features of Chichester and Langstone Harbours Special Protection Areas (SPAs), in combination with other plans and projects. A financial contribution has been made towards mitigation of this effect for the Solent SPAs under section 11 of the Local Government Act 1972 which would accord with the Solent SPAs Supplementary Planning Document (SPD) 2014.

11. Under the SPD, the mitigation would fund measures to prevent disturbance to wintering waders and wildfowl and consist of measures, including rangers, to reduce disturbance by influencing the behaviour of visitors, including dog-walkers and a monitoring scheme to assess the effectiveness of measures. On this basis, I am satisfied that the contribution would be used for its intended purpose and that the effects of this development can be mitigated such that the integrity of the SPAs would not be adversely affected.

Conditions

12. Suggested conditions have been considered in light of advice contained in Planning Practice Guidance; for clarity and to ensure compliance with the guidance, I have amended some of the Council's suggested wording.
13. A condition requiring that the development is carried out in accordance with approved plans is necessary in the interests of certainty. In the interests of the character and appearance of the area, a condition is required to ensure construction materials to match the existing building. To ensure satisfactory noise levels within the permitted dwellings, a condition is necessary to set appropriate levels and associated verification. In the interests of highway safety, a condition is necessary to secure the stopping up of most of existing dropped kerb and vehicular crossover. In the interests of offering sustainable choices of transport and the appearance of the development, conditions are necessary to ensure adequate cycle and bin storage provision.
14. An imposed condition, detailed above, requires the development to be carried out with the approved plans. As a result, a further condition requiring shopfront removal and alterations in accordance with the approved plans is not necessary. In all other respects, the imposed conditions would meet the relevant tests contained within the PPG and the National Planning Policy Framework.

Conclusion

15. For the above reasons and having regard to all matters raised, I conclude that the appeal should be allowed.

Jonathon Parsons

INSPECTOR

Schedule A

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 8573 01 and 8573 01D.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match, in type, colour and texture, those on the existing building.
- 4) The habitable rooms of the dwellings hereby permitted shall be insulated against road noise to ensure that the following acoustic criteria will be achieved internally: Daytime (Living rooms and bedrooms) LAeq(16 hr) (7:00 to 23:00) 35dB and Night-time (Bedrooms only) LAeq(8hr) (23:00 to 07:00) 30dB and LAmax 45dB.

None of the dwellings hereby permitted shall be occupied/brought into use until a verification report carried out by an acoustic engineer/professional has been submitted to and approved in writing by the local planning authority. Such a verification report shall confirm that habitable rooms have been insulated against road traffic in accordance with the above requirements.

- 5) Prior to the first occupation of any of the dwellings hereby permitted, the existing vehicular cross over and dropped kerb onto Connaught Road immediately adjacent to the development site (with the exception of a 1.5m section immediately adjacent to the approved refuse store) shall be removed and replaced with a full height kerb and reinstated footway, the ground level of which shall match that of the adjacent footway.
- 6) Prior to the first occupation of any of the dwellings hereby permitted, details of the design and layout of bicycle storage facilities as shown on the approved plan shall be submitted to and approved in writing by the local planning authority. Prior to the occupation of the last dwelling hereby permitted, the facilities shall be implemented in accordance with the approved details and thereafter they shall be retained for the storage of bicycles associated with this permitted development and the other dwellings permitted above the ground floor.
- 7) Prior to the first occupation of any of the dwellings hereby permitted, the refuse facilities as shown on the approved plan shall be provided for the development and the dwellings permitted above the ground floor. The approved facilities shall thereafter be retained for the storage of refuse associated with this permitted development and the other dwellings.