

Appeal Decision

Site visit made on 12 March 2014

by R Barrett Bsc Msc Dip UD Dip Hist Cons MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 April 2014

Appeal Ref: APP/Z1775/A/14/2212334

130, Portsmouth Health Care NHS Trust, Elm Grove, Southsea, Hampshire PO5 1LR

- 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 SAP No 1 Limited and SAP No 2 Limited against the decision of Portsmouth City Council.
- The application Ref 13/01179/FUL, dated 23 October 2013, was refused by notice dated 9 January 2014.
- The development proposed is conversion of existing offices and health drop in centre (Class D1) to purpose designed and managed student accommodation (Class C1) to provide 53 bedrooms arranged over 13 flats, including the construction of cycle and bin stores and associated landscaping.

Decision

1. The appeal is allowed and planning permission is granted for conversion of existing offices and health drop in centre (Class D1) to purpose designed and managed student accommodation (Class C1) to provide 53 bedrooms arranged over 13 flats, including the construction of cycle and bin stores and associated landscaping, at 130, Portsmouth Health Care NHS Trust, Elm Grove, Southsea, Hampshire PO5 1LR, in accordance with application Ref 13/01179/FUL, dated 23 October 2013, subject to the following 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 the following approved plans: 354-PL-SITE-001; 354-PL-SITE-003 (in so far as it identifies the appeal site only); 354-PL-SITE-004C (in so far as it relates to the ground floor internal arrangement only); 354-PL-SITE-005A; 354-PL-GA-010A (in so far as it relates to the ground floor internal arrangement only); 354-PL-GA-011A; 354-PL-GA-012A; 354-PL-GA-013A; 354-PL-GA-014A; 354-PL-GA-015; 354-PL-GA-110A; 354-PL-GA-111A; 354-PL-GA-112A; 354-PL-GA-113A; 354-PL-GA-210A; 354-PL-GA-211A.
 - 3) No development shall take place until a scheme for insulating the building against external noise (including if necessary the installation of a mechanical ventilation system) has been submitted to and approved in writing by the local planning authority. The scheme shall be carried out in accordance with the approved details prior to occupation of the building and retained as approved thereafter.
 - 4) No development shall take place until details of the cycle stores as indicated in plan 354-PL-SITE-005A, including means of locking them and

a scheme for monitoring their use, has been submitted to and approved in writing by the local planning authority. The approved details shall be implemented before first occupation of the development and thereafter retained in that condition for use by the occupants of the building.

- 5) Prior to the first occupation of the halls of residence hereby permitted, facilities for the storage of refuse and recyclable materials shall be provided in accordance with details set out on plan 354-PL-SITE-005A and those facilities shall thereafter be retained for the continued use by the occupants of the building.

Procedural Matters

2. Planning Practice Guidance (PPG) came into force, and various previous national planning guidance documents were cancelled, on 6 March 2014. Given the nature of this proposal, these changes to the guidance framework have not affected my decision.
3. Clarification was sought regarding the plans on which the Council made its decision. It is agreed between the parties that the appeal plans include all those listed in this appeal decision, regardless of those indicated on the Council's decision notice. I have made my decision on this basis.
4. It is noted that Plan 354-PL-SITE-005A does not accord with Plan 354-PL-SITE-003, 354-PL-SITE-004C or 354-PL-GA-010A, all showing the proposed rear court yard arrangement. As both parties have agreed that the details on plan 354-PL-SITE-005A were considered by the Council, as part of the appeal application, I have made my decision on the basis of the annotation, bike store provision and recycling and bin store facilities as indicated on that plan.

Application for costs

5. An application for costs was made by SAP No 1 Limited and SAP No 2 Limited against Portsmouth City Council. That application is the subject of a separate Decision.

Main Issue

6. The effect of the proposal on the living conditions of nearby residents, with regard to noise and disturbance.

Reasons

7. The appeal site includes a five storey building. It is currently mainly vacant having last been used as offices with a health drop in centre on the ground floor. Part is now used as a temporary office. It is situated within the Albert Road and Elm Grove District Centre. It is also situated just outside the boundary of the Owens Southsea Conservation Area.
8. The appeal site fronts onto the busy Elm Grove, near to a heavily trafficked four way junction. The character of the street is mixed with shops and residential units, including flats and houses in multiple occupation. On my site visit, I found Elm Grove to have a generally busy atmosphere and traffic noise was audible. I observed a number of night time uses and the text to The Portsmouth Plan *Portsmouth's Core Strategy* (CS) Policy PCS8 indicates that it is a vibrant evening and night time destination. The streets to the side and

rear of the appeal site, including Albany Road and Stafford Road are residential in character, with a quieter feel.

Living Conditions

9. The activity, noise and disturbance that would be a consequence of the proposed student residential accommodation, would be unlikely to exceed the combined activity, noise and disturbance generated by the previous permitted use. The proposed reduction in the windows would reduce any noise outbreak, even if this were not significant. In addition, the impact of any noise and disturbance would be significantly reduced by ambient noise levels in the locality, which is a busy shopping street within a District Centre, with a mix of retail uses and a public house next door. Further, traffic noise from Elm Grove is audible. Taking all these matters into consideration, any activity, noise and disturbance would not be materially different to the development previously permitted or out of character in this location, even taking into account the quieter residential streets to the side and rear.
10. The use of the open area to the rear as a garden would replace 10 of the 14 existing parking spaces, which would reduce car noise, disturbance and activity. In addition, the appellant undertakes that arrivals and departures by vehicles would be carefully controlled. These matters would reduce the noise and disturbance from the existing situation and would be an advantage of the appeal proposal. The use of the open rear space as a garden for future occupiers would accord with other residential uses in the locality and no compelling evidence is before me to demonstrate that additional noise and disturbance to local residents would result as a consequence. It is suggested that the surrounding tall buildings may create an enclosed well of sound which may amplify any suggested noise, but on the basis of my previous findings, I attach limited weight to this.
11. Whilst local objection is raised regarding student behaviour and it is suggested that noise complaints would be likely, I have no compelling evidence to suggest that the behaviour of the future student occupiers would result in such. In addition, the appellant has undertaken to manage the premises and set in place a regime to deal with problems of anti-social behaviour including noise nuisance if they should arise. In this regard, there are observations from local residents regarding noise and disturbance relating to a significantly smaller hall of residence nearby. It is suggested that it is managed by the same company that would manage the appeal proposal. However, I have no evidence to suggest that future residents of the appeal site would behave in a similar manner.
12. It is suggested that any noise nuisance that may result could be dealt with under the Environmental Protection regime. I acknowledge that the threshold for a statutory nuisance is likely to be above the level of noise that would harm the living conditions of local residents but it would be the appropriate regime should such issues arise. It is also suggested that student 'satellite' accommodation is causing problems in Portsmouth but I have limited evidence in this regard.
13. I conclude that the appeal proposal would not materially affect the living conditions of nearby residents with regard to noise and disturbance. It would therefore accord with CS Policy PCS23, which seeks, in new development,

protection of amenity and the provision of a good standard of living environment for neighbouring and local occupiers.

Other Matters

14. A completed Unilateral Undertaking (UU) is before me which would restrict the occupancy of the appeal building as temporary residential accommodation for students during their period of study. On the basis of the density of the appeal proposal and to prevent it being used as other types of residential accommodation in the future, I consider that its provisions would be necessary to make the proposed development acceptable in planning terms.
15. The submitted UU also includes a tenant management plan which, amongst other things, seeks to control arrivals and departures by car, put in place measures to deal with anti-social behaviour as well as restrict the future occupiers from parking cars in the locality. Some of those provisions would be necessary, bearing in mind the proximity of residential properties to the rear and the quieter feel of those streets. It would therefore be necessary, overall, to make the proposed development acceptable in planning terms and would meet the tests set out in Paragraph 204 of the National Planning Policy Framework (the Framework). The UU therefore weighs in favour of the appeal proposal.
16. The appeal proposal would use an empty building and improve its external appearance, which at present looks rather tired. It would not result in an inappropriate design and external cladding, new windows and glazing pattern along with some landscaping to the rear would all add to the variety and interest of the street scene. This would be a benefit of the appeal proposal.
17. On the basis of the previous use as an office and health drop in centre, the alteration to the windows, which would reduce the amount of glazing, the internal configuration of the building, which would result in most study bedrooms being lit from the front and rear, and the separation distance between the appeal site and the surrounding properties, no material increase in overlooking would result. All these matters convince me that a material increase in overlooking to the surrounding residential properties would not be a consequence of the appeal development.
18. The appeal site is located just outside the Owens Southsea Conservation Area. As I have found that the proposed use would not result in material harm to the living conditions of nearby residents with regard to noise and disturbance or overlooking and that the appeal proposal would improve the external appearance of the appeal building, it follows that it would preserve the setting of the Conservation Area.
19. The future occupants of the appeal site would not be eligible to park in the residents parking schemes in the locality. In addition, parking on Elm Grove is restricted and very limited and it is confirmed that car parking south of Elm Grove is severely congested. Further, the appeal site is close to local facilities, including shops and public transport. These matters would be likely to discourage car ownership within the future occupiers and encourage more sustainable forms of transport. In addition, some evidence is before me to suggest that car ownership amongst the student population is lower than other groups in any event. Due to these matters, and bearing in mind the permitted use as an office and health drop in centre, I agree with the Council that the

appeal proposal would not be likely to result in a material increase in demand for car parking in the locality.

20. Under the terms of the submitted tenant management plan it is suggested that future occupiers would be restricted from parking cars within the locality and parking for arrivals and departures at the beginning and end of terms would be provided in the rear courtyard and carefully managed to ensure adequate provision. Whether student parking within the locality could be controlled or not does not change my conclusions on the resultant demand for car parking in the locality.
21. Although not within the University Campus Area referred to in the evidence, the proposed use as student accommodation would be appropriate in this town centre location as it would be close to the local shops, public transport and other facilities including the City Centre and University campus. As the locality has a mixed character, including flats and houses in multiple occupation, it would not be out of character in this location. It would add to the vitality of the town centre, and help to deliver sustainable, inclusive, mixed communities as set out in section 2 and paragraph 50 of the Framework. I have limited evidence to suggest that it would drive out local long term residents.
22. As it would be student accommodation which would include a private study bedroom plus communal facilities, I find that it would result in adequate accommodation. It would fit within the envelope of the existing building, with some modification at ground floor level, and would have an acceptable relationship with the street and the surrounding character and appearance. For these reasons, it would not represent an overdevelopment of the appeal site.
23. The rear courtyard would not be gated. However the natural surveillance by future residents, their comings and goings and general movements would mean that a gated barrier would be unnecessary to deter trespassers and anti-social behaviour at the rear of the appeal site.

Conditions

24. I have considered the conditions suggested by the Council and agree that most are necessary, subject to some alterations to improve clarity and ensure consistency with paragraphs 203 and 206 of the Framework, and PPG: Use of Planning Conditions. I have attached the standard condition relating to the commencement of development. For clarity a condition referring to the relevant plans is necessary for the avoidance of doubt and in the interest of proper planning. A condition to control external materials is unnecessary as the plans provide this information. There is evidence to suggest that a restriction on the opening of the proposed windows would not have a significant effect on noise outbreak and on the basis of my findings regarding noise and disturbance, this would not be necessary. A condition to require obscure glazing on the rear elevation would not be required as I have found that a material increase in overlooking would not result. A scheme for insulating the building against external noise is necessary to ensure acceptable living conditions for future residents, on the basis of traffic noise and the adjacent public house. A condition to specify the species of the proposed trees to be planted at the rear of the appeal site and to ensure their retention is not necessary as the acceptability of the appeal proposal does not rely on this planting. A condition to secure the details of lockable cycle stores is necessary to ensure that they relate well in appearance to the locality, in the interest of

security and to promote sustainable patterns of travel. A condition to ensure that refuse facilities are provided prior to first occupation and retained is necessary to ensure adequate provision in this regard.

Conclusion

25. For the above reasons, and taking all other matters raised into consideration, I conclude that the appeal should be allowed.

R Barrett

INSPECTOR

Richborough Estates