

Appeal Decision

Site visit made on 17 January 2017

by Jameson Bridgwater PGDipTP MRTPI

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

Decision date: 23 February 2017

Appeal Ref: APP/Z1775/W/16/3159992

37 Margate Road, Southsea PO5 1EY

- 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 James Oliver against the decision of Portsmouth City Council.
 - The application Ref 16/01211/FUL, dated 18 July 2016, was refused by notice dated 16 September 2016.
 - The development proposed is described as 'change of use from C4/C3 dual use to Sui Generis'.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from purposes falling within Class C4 (house in multiple occupation) or Class C3 (dwelling house) to 7 bedroom house in multiple occupation (sui generis) at 37 Margate Road, Southsea PO5 1EY in accordance with the terms of the application, Ref 16/01211/FUL, dated 18 July 2016, subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: PG.1041.16.SUI and location plan.

Application for costs

2. An application for costs was made by Mr James Oliver against Portsmouth City Council. This application is the subject of a separate decision.

Procedural and preliminary matters

3. The appellant has described the development as 'Change of use from C4/C3 dual use to Sui Generis'. The Council's description more accurately describes the proposal as 'Change of use from purposes falling within Class C4 (house in multiple occupation) or Class C3 (dwelling house) to 7 bedroom house in multiple occupation (sui generis)'. I have considered the appeal upon this basis.
4. The property had been converted and was being occupied as a 7 bedroom house in multiple occupation (HMO) (sui generis) at the time of my site visit.

Main issue

5. The main issue in the appeal is the effect of the proposal on the living conditions of the occupiers of No 37 Margate Road and the adjoining community, with particular regard to shared communal space.
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Reasons

6. The appeal property is a two-storey mid-terrace house with accommodation at roof level that is located on the north side of the road and within an area characterised by a mix of houses and HMOs. The property has a hard surfaced rear yard that is accessed through the house. The front of the property has a small area enclosed by a wall, this area was used to store the properties wheeled bins. This was consistent with other properties in the street.

Living conditions

7. The current use of the property for C4 purposes would enable occupation by up to six residents. The appeal concerns the accommodation being increased by 1 additional bedroom, making a total of 7 bedrooms; however, this would not change the nature of the use. To effect this change the second floor study would be converted into a bedroom. No other rooms would be affected.
8. Policy PCS20 of The Portsmouth Plan seeks to avoid concentrations of HMOs within the city. However, the policy is clear in that it states 'for the purposes of this policy, dwellings in use as Class C4, mixed C3/C4 use and HMOs in sui generis use will be considered to be HMOs'. Consequently, as the appeal property already has consent for a C4 use, the proposal could not result in an increase in concentration of HMOs in the City.
9. The Council have argued that the use of the property as a Sui Generis HMO would also require a licence from the City Council's Private Sector Housing Team, it is their view that HMO licensing only secures the bare minimum standard for human habitation and does not consider the wider impacts of the use on surrounding land uses/users. However, there is no substantive evidence before me that demonstrates that the amenity space proposed is below the amenity space required for a HMO of this size. Further, whilst I note that the existing shared study would be converted into a bedroom, the communal lounge/kitchen area would provide an adequate communal residential environment. Therefore the proposal would not result in material harm to the living conditions of existing and future occupiers of No 37 Margate Road.
10. Furthermore, having regard to the site's urban location and the density of housing in the area, any increase in occupancy at the property derived from such a small increase in bedroom accommodation would not be materially discernable when considered in the context of the existing activity in the surrounding urban area. In reaching this conclusion I have carefully considered the representations from local residents, however, I am not persuaded that sufficient evidence has been submitted to substantiate that the proposed 1 additional bedroom, would result in material harm to their living conditions or unbalance the local community.
11. Having come to the conclusions above, it follows that the proposal would not conflict with Policy PCS20 of The Portsmouth Plan.

Other considerations

12. The appellant in support of his statements has referred to other developments in the area. However, I have limited information about their histories, but inevitably their contexts would differ to that of the scheme before me. I have therefore considered the appeal before me on its individual merits against the

criteria of the Development Plan and the Framework and any other material considerations.

Conditions and conclusion

13. The condition suggested by the Council has been considered in light of the advice contained within the National Planning Practice Guidance and the National Planning Policy Framework. It is necessary for certainty, to define the plans with which the scheme should accord.
14. For the above reasons, and having carefully considered all other matters raised. I conclude that the appeal should be allowed.

Jameson Bridgwater

INSPECTOR