
Appeal Decision

Site visit made on 1 November 2017

by Andy Harwood CMS MSc MRTPI

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

Decision date: 06 December 2017

Appeal Ref: APP/Z1775/W/17/3179404
22 Jessie Road, Southsea PO4 0EN

- 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 Anthony Lane against the decision of Portsmouth City Council.
 - The application Ref 17/00555/FUL, dated 29 March 2017, was refused by notice dated 16 June 2017.
 - The development proposed is the change of use from purposes falling within a C3 (dwelling house) or C4 (house in multiple occupation) to a 7 bedroom 7 person sui generis house in multiple occupation.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use from purposes falling within a C3 (dwelling house) or C4 (house in multiple occupation) to a 7 bedroom 7 person sui generis house in multiple occupation at 22 Jessie Road, Southsea PO4 0EN in accordance with the terms of the application, Ref 17/00555/FUL, dated 29 March 2017, subject to the following conditions:
 - 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 plan: 'PG.1075.16.3' dated March 2017.
 - 3) The premises shall only be used as a house in multiple occupation for a maximum of 7 residents.

Application for costs

2. An application for costs was made by Anthony Lane against Portsmouth City Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The Council has confirmed that their concerns regarding the impacts upon biodiversity specifically within the nearby Special Protection Area, have been overcome. This was through a payment via section 111 of the Local Government Act 1972. I have limited evidence about this matter but as the Council is now satisfied on this point, I will not consider it further.

Main Issue

4. Whether the development would provide for satisfactory living conditions for

the prospective occupiers.

Reasons

5. The appeal site is within a residential area which includes buildings that appear to have all originally been dwellings, within tight knit traditional terraces. It is agreed between the main parties that the property at the moment has a lawful use within use class C4 as a House in Multiple Occupation (HMO) which allows for occupation by between 3 and 6 unrelated individuals sharing basic facilities. The main proposed change of consequence to the main issue is on the ground floor. A lounge would become a further bedroom, enabling occupation by 7 people.
6. The Council has recently partially adopted a revised Supplementary Planning Document relating to HMOs¹ (SPD) which provides some space standards to ensure occupants have adequate living standards. Of the existing bedrooms within the class C4 HMO, 2 of the rooms are marginally below the 7.5m² required by the SPD. The proposed additional bedroom at 10.24m² would far exceed the guidance. The Council has also been advised by its Private Sector Housing team (PSH) who deal with licencing of HMOs under the Housing Act 2004. The 2014 Council's document "Standards for Houses in Multiple Occupation" relating to housing standards has, I am told, been withdrawn from the Council's website and is under review. Its status is not clear with respect to PSH advice or planning decisions and so I give it little weight. The consultation from the PSH team refers to size criteria, does not refer to that document and their rationale for reaching the suggested sizes is not clear. Although not directed at HMOs, the national housing standards² are a useful bench mark and 2 of the 7 rooms are a little below that suggested.
7. With the loss of the communal lounge as well as the additional bedroom there will be an effect upon the demands for remaining shared space elsewhere within the building. The communal kitchen is open plan and linked with the lounge. This is not proposed for change. The level of facilities provided in the kitchen appeared to me to be to a good standard. Space around the food preparation area was substantial and there is a reasonably sized sink. The lounge part of this had a large sofa suitable for 4 or 5 people in my view. There is some other space available to bring in further, informal seating if required. I also found the room to be light and airy with good access to outside space. Although there would be greater use of this room, it did not strike me as an area that would feel cramped or claustrophobic even if 7 people were to all use it at the same time.
8. The cooking area would be a little chaotic if several people tried to cook at the same time, but that would be the case even with the 6 people who can already lawfully live in the property. The Council considered prior to the SPD adoption that at around 20.2m², the floor space is deficient by a 2.8m². Furthermore, the SPD requires a combined living space of 27m² although I am unconvinced from the submitted evidence that not meeting this guidance would make a critical difference to the comfort of living here with 1 additional resident. The Council's PSH team acknowledges that the room may be satisfactory but that they would need to visit to determine that. It is unfortunate that they did not visit.

¹ Houses in Multiple Occupation – Ensuring Mixed and Balanced Communities, partially adopted 21 November 2017

² Technical housing standards – nationally described space standards

9. I viewed the toilets and bathrooms. The Council considers that a minor change to the ground floor toilet via the HMO licence is necessary regardless of the outcome of this appeal. The PSH team refer to concerns over the size of the second floor bathroom and again, this has not been clarified via a site visit. I found the sanitary accommodation to be to a good standard and size. Given that usually 1 person would use a bathroom at a time, it is not clear why these rooms are suitable for 6 people but not 7. Although the requirement of the SPD for 2 separate toilets is not met, the proposal would result in only 1 additional occupant and I do not consider that this should be of decisive weight in relation to this matter.
10. Overall, I found that the accommodation within the property would enable a comfortable living environment for occupiers of the building. In relation to the main issue, the proposal would provide for satisfactory living conditions for the prospective occupiers. This would comply with Portsmouth Plan³ (PP) Policy PCS23 and the requirement in paragraph 17 of the National Planning Policy Framework to secure a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

11. The Council's decision did not allege within the reason for refusal a breach of PP Policy PCS20 which seeks to prevent imbalanced communities through an over-concentration of HMOs. Within the costs application rebuttal, the Council has confirmed that this remains the case. The Council's statement does refer to the SPD that was in draft form at that stage suggesting that there would be an imbalance as defined in that document. However, the property is already lawfully used as a HMO albeit within use class C4 and so would not result in any further concentration of HMOs in this part of Portsmouth. I have no evidence to indicate that the additional occupant at the property would have any significant impact upon the use of private vehicles or therefore on-street parking. Consequently this would make very little difference to the balance of the community and the proposal therefore complies with PP Policy PCS20.

Conditions

12. I have imposed a condition specifying the relevant drawings as this provides certainty that the development will be implemented as proposed. In addition, the Council has suggested that the numbers of occupiers is limited by planning condition to 7 which has been the approach in other allowed appeals. Some of the bedrooms may be large enough for couples but that would put additional strain on the facilities within the building and I therefore consider the restriction would be reasonable and necessary.

Conclusion

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

A Harwood

INSPECTOR

³ The Portsmouth Plan (Portsmouth's Core Strategy), adopted 24 January 2012