
Appeal Decision

Site visit made on 8 January 2018

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 March 2018

Appeal Ref: APP/Z1775/W/17/3185652
63 Jessie Road, Southsea PO4 0EJ

- 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 Anthony Lane against the decision of Portsmouth City Council.
 - The application Ref 17/01240/FUL, dated 17 July 2017, was refused by notice dated 25 September 2017.
 - The development is change of use from purposes falling within a C4 (house in multiple occupation) to a house in multiple occupancy for more than 6 persons (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 a C4 (house in multiple occupation) to a house in multiple occupancy for more than 6 persons (Sui Generis) at 63 Jessie Road, Southsea PO4 0EJ in accordance with the terms of the application, Ref 17/01240/FUL, dated 17 July 2017, subject to the following condition:
 - 1) The premises shall only be used as a house in multiple occupation for a maximum of 7 residents.

Procedural Matter

2. I saw that works as shown on the proposed ground floor plan to change the layout to one containing 7 bedrooms had been implemented and occupied as such.
3. Since the Council issued its decision it has published its Supplementary Planning Document: Houses in multiple occupation (HMOs) – revised November 2017 (the HMO SPD). As this supersedes the previous version, I have determined the appeal with consideration to that revised version, to which I have afforded some weight due to its role in supporting the relevant development plan policy.
4. The Council, in its submissions also refers to its Solent Special Protection Areas (SPAs) Supplementary Planning Document (the SPA SPD). Again, I have afforded this document some weight due to its role in supporting the relevant development plan policy.

Application for costs

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

Main Issue

6. The main issue is whether the development provides adequate living conditions for its residents in respect of the provision for kitchen/living room space and whether or not it represents an over intensive use of the site.

Reasons

Main issue

7. The linked communal kitchen and living room space on the ground floor is accepted by the parties to have a floor area of approximately 26 square metres and I have no basis to consider otherwise. This is slightly less than the 27sqm standard set out in the HMO SPD. However, I saw that the kitchen was fully fitted out and that the lounge had a good sized seating area including unimpeded space to comfortably pass through to the kitchen. There is also direct access to the outside amenity space from that shared internal space. That is likely to enhance the quality of the space and further encourage its use, particularly in the summer months when the outdoor area is more likely to be used. Therefore, despite being less than the HMO SPD standard floor area, it is only by a small amount and is not an area that is cramped and unlikely to encourage use by all of the residents.
8. Furthermore, in terms of the amount of floorspace in the property as a whole, I saw that whilst the bedrooms were of variable floor area, all were of a good size. Whilst some of the floor area of bedroom 1 on the top floor includes some reduced floor to ceiling height due to the slope of the roof, it too is of a good size with adequate useable space.
9. For the above reasons, the development provides adequate living conditions for its residents in respect of the provision for kitchen/living room space and does not represent an over intensive use of the site. As such, it accords with policy PCS23 of the Portsmouth Plan: Portsmouth's Core Strategy (the Core Strategy) and is not at odds with the principles set out in the HMO SPD which together, amongst other things, require new development to provide a good standard of living environment for its residents.

Other matters

10. I have had regard to a local resident's concerns raised about the change of use adding to the already high concentration of HMOs in the vicinity of the site, stated by the Council to represent 40% of the properties within a 50 metre radius of the site. I also note that the HMO SPD sets out that a concentration of over 10% would represent an imbalance in relation to other Class C3 dwelling houses and that in those circumstances the Council will seek to refuse planning applications for further HMOs.
11. Importantly there would be no increase in the number of HMOs in the area as a result of the appeal scheme. The HMO SPD does also state that the Council will seek to refuse planning applications for changes of use of the nature relating to the appeal in those same circumstances. Nevertheless, in this case the addition of just one single sized bedroom would be unlikely to materially increase the community imbalance and I have received insufficient substantive evidence to the contrary. In this respect, although determining this appeal on its own merits, I have also had regard to similar conclusions by my colleague in two recent appeal decisions for other sites not far from that of this appeal,

albeit not in the same immediate vicinity. These related to similar proposed changes of use at 59 Liss Road and 1 Edmund Road, Refs APP/Z1775/W/17/3185768 and 3185758 respectively.

12. Due to that modest likely increase in numbers living at the property, it is also unlikely that this would cause a material increase in demand for on-street parking space in the locality and I have not received any substantive evidence to the contrary. I also note that the Council highlights that the parking standards would not require any more provision as a result of the change of use.
13. There is a need to protect the quality of the habitat in the SPAs, in particular relating to significant numbers of waders and waterfowl which spend winter in the Solent, from pressure due to the recreational activity of additional residents living within the area of the city as set out in the SPA SPD. The property concerned lies within that area and the change of use would be likely to result in an increase in people living there. Policy PCS13 of the Core Strategy, together with the SPA SPD, sets out the requirements to ensure such protection. This includes interim mitigation in the form of providing a team of rangers, a delivery officer to oversee the mitigation scheme, a coastal dogs project and a monitoring scheme.
14. The National Planning Policy Framework (the Framework) confirms in paragraph 119, that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined. In this case the appellant has made an appropriate mitigation payment in accordance with the SPA SPD, provided through a Section 111 Agreement under section 111 of the Local Government Act 1972. Consequently, the development is unlikely to have a significant effect on the SPAs. As such, no further consideration of appropriate assessment under the Habitats Regulations is required and the preclusion on applying the presumption in favour of sustainable development under paragraph 119 does not come into effect.

Conditions

15. The Council has suggested three conditions that it considers would be appropriate were I minded to allow the appeal. I have considered these in the light of advice in the Government's Planning Practice Guidance (PPG). The standard time condition and that requiring the permission to be carried out in accordance with the approved plans are not required in this case as the development concerned has been implemented. In light of my findings of a lack of harm based on the development only comprising the addition of one single sized bedroom, resulting in 7 bedrooms in total, a condition limiting the number of occupants of the HMO to 7 would be reasonable and necessary to prevent any such harm from occurring.

Conclusion

16. For the above reasons, I conclude that the appeal should be allowed.

Andrew Dawe

INSPECTOR