
Appeal Decision

Site visit made on 20 June 2018

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 July 2018

Appeal Ref: APP/Z1775/W/18/3193995
18 Bramble Road, Southsea PO4 0DT

- 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 17/01936/FUL, dated 8 November 2017, was refused by notice dated 11 January 2018.
 - The development is change of use from purposes falling within C3 (dwelling house) or C4 (house in multiple occupation) to a seven bedroom seven person sui generis house in multiple occupation.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use from purposes falling within C3 (dwelling house) or C4 (house in multiple occupation) to a seven bedroom seven person sui generis house in multiple occupation at 18 Bramble Road, Southsea PO4 0DT in accordance with the terms of the application, Ref 17/01936/FUL, dated 8 November 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 Matters

2. The Council, in its decision notice, refers to its Supplementary Planning Document: Houses in multiple occupation (HMOs) – revised November 2017 (the HMO SPD). I have afforded some weight to that document due to its role in supporting the relevant development plan policy.
3. The Council, in its submissions also refers to its Solent Special Protection Areas 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.

Main Issue

4. The main issue is the effect of the proposal on the mix and balance of the local community.

Reasons

Main issue

5. Policy PCS20 of the Portsmouth Plan: Portsmouth's Core Strategy (the Core Strategy) sets out the need to ensure mixed and balanced communities and that applications for changes of use to an HMO will only be permitted where the community is not already imbalanced by a concentration of such uses or where the development would not create an imbalance. The HMO SPD reinforces that.
6. There is currently a fairly high proportion of HMOs in the vicinity of the site, stated by the Council to represent 13.3% of the properties within a 50 metre radius of the site. That is just over the 10% threshold above which the Council states in its HMO SPD would represent an imbalance in relation to Class C3 dwelling houses. In those circumstances the Council will seek to refuse planning applications for further HMOs.
7. I saw that the 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. Importantly, in this case, this has not increased the number of HMOs in the area as the property already benefits from a lawful use as a Class C3 dwelling house or Class C4 HMO. 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 concerning the 10% threshold. Nevertheless, in this case the addition of just one single sized bedroom to an existing lawful HMO would be unlikely to materially increase the community imbalance and I have received insufficient substantive evidence to the contrary.
8. In this respect, although determining the appeal on its own merits, I have also had regard to other similar recent cases allowed on appeal¹ as referred to by the appellant. Similar conclusions were reached in those decisions in respect of this issue, all of which related to sites not far from that of this appeal, albeit not in the same immediate vicinity. I have therefore afforded significant weight to those other decisions.
9. For the above reasons, the development does not cause unacceptable harm to the mix and balance of the local community. As such, it accords with policy PCS20 of the Core Strategy and is not at odds with the general principles set out in the HMO SPD.

Other matters

10. Due to that modest likely increase in numbers living at the property, it is 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.
11. The addition of only a single person to the potential lawful existing maximum occupancy of the HMO would also be unlikely to cause a material increase in

¹ Appeal Refs APP/Z1775/W/17/3185768, APP/Z1775/W/17/3185758 and APP/Z1775/W/17/3185652

activity relating to comings and goings or use of the rear garden area, in terms of any effects on the amenities of neighbouring residents.

12. Concern has been raised about the overbearing impact and loss of light to an adjacent property caused by the existing rear extension. However, that extension is not the subject of this appeal.
13. There is a need to protect the quality of the habitat in the Portsmouth Harbour and Chichester and Langstone Harbours Special Protection Areas (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. 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. 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 finding 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