

Appeal Decision

Site visit made on 26 November 2018

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 11th December 2018

Appeal Ref: APP/Z1775/W/18/3208412

14 Wisborough Road, St. Jude, Southsea PO5 2RE

- 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 18/00728/FUL, dated 26 April 2018, was refused by notice dated 19 July 2018.
 - The development is the change of use from purposes falling within a C4 (house in multiple occupancy) to a house in multiple occupancy for more than 6 persons (sui generis).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. While I was not able to enter the bedrooms during my site visit I was able to see the other spaces, and note that the development appears to be complete. I am satisfied that I have sufficient information to determine the appeal.

Main Issues

3. The main issues are:
 - its effect on the Portsmouth Harbour and Chichester and Langstone Harbours Special Protection Areas (SPAs);
 - whether the use provides an adequate standard of accommodation for occupiers; and,
 - its effect on the mix and balance of the community.

Reasons

The SPAs

4. The Solent Recreation Mitigation Strategy 2017 has been adopted by the Council. It describes how new residential development in Portsmouth will result in a significant adverse effect on the Solent Coast Special Protection Areas (SPAs). It sets out how developer contributions, based on the number of bedrooms and collected by the Council, towards a range of management
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measures and projects to be implemented by the Solent Recreation Mitigation Partnership can mitigate the effect of development on the SPAs.

5. While the proposed development results in only 1 additional resident, in combination with other plans and projects the effects of the additional population is significant. The appellant has indicated that he is willing to enter into an agreement to mitigate the effect of the development on the SPAs, but there is no undertaking before me. Accordingly, the failure to mitigate the effect of the proposal on the SPAs means that I cannot be certain that there is no adverse effect on them. The proposal therefore conflicts with policy PCS13 of the Portsmouth Plan Portsmouth's Core Strategy (CS), paragraph 175 of the National Planning Policy Framework, and the Conservation of Habitats and Species Regulations 2010.

The standard of accommodation for occupiers

6. The area of the kitchen/dining/living room, at 24.9m², is around 2m² below the minimum area indicated in its HMO guidance¹ of 27m². However I note that the floor area guidance of 27m² applies equally to proposals greater than 7 people as it does to development containing 7 people. Given that all the bedrooms meet the minimum area required, and that some are substantially greater, as well as the arrangement, utility and standard of the kitchen/dining/living room provided, in my judgement the shortfall in this case does not lead to an inadequate standard of accommodation.
7. This conclusion is consistent with the appeal decision² at Jessie Road where a large HMO for 7 people was allowed despite a greater shortfall. The Council refers to an appeal decision³ at Pitcroft Road; however that concerned a shortfall of living space of 3.5m² against a minimum of 14m². Moreover, unlike in this case, some of the bedrooms in that appeal were below the minimum floor area.
8. The Council's guidance also advises that houses for 7-10 people should provide 2 separate bathrooms and 2 separate WCs, one of which may be in a bathroom. The house contains 3 bathrooms, each including a WC. Whilst there is therefore a shortfall of 1 WC against the SPD, again I note that it applies equally to 10 people as it does to 7, which is the number of occupiers in this case. I recognise the convenience an additional WC would provide. However, given that there is a bathroom on each of the 3 floors, and noting the facilities within each, which are shared by 2 bedrooms at ground and second floors and by 3 at first floor, the shortfall would not have a significant effect on the living conditions of occupiers in terms of health, hygiene and physical comfort.
9. I conclude that the development provides an adequate standard of accommodation for occupiers. While I see less relevance of CS policy PCS 20 to which the Council refers, it does not conflict with CS policy PCS23 where it seeks a good standard of living environment for future residents and users of a development.

The effect on the mix and balance of the community

10. CS policy PCS20 restricts the changes of use to HMOs to areas where the community is not already imbalanced by a concentration of such uses or where

¹ Houses in multiple occupation (HMOs) Supplementary Planning Document revised July 2018

² Appeal Ref: APP/Z1775/W/17/3179404

³ Appeal Ref: APP/Z1775/W/17/3188485

the development would not create an imbalance. Its definition of an HMO includes large HMOs. The Councils HMO guidance defines an imbalanced community as one where more than 10% of properties within a 50m radius of the proposal are already in HMO use. It indicates that the Council will refuse applications to change the use of a Class 4 or mixed C3/C4 use to a large HMO, where the concentration of HMOs already exceeds the 10% threshold.

11. The Council has found that 18 of the 89 residential properties surrounding the appeal site, or 20%, are in HMO use. It considers that the intensification of this HMO worsens the imbalance. I acknowledge the list of impacts which the Council suggests this intensification could have on the community. However, the number of houses in the area has not been reduced so I cannot see how the additional bedroom increases the competition for rented houses, or inflates house prices. There is no substantive evidence that it reduces the affordability of housing or decreases the demand for services.
12. I acknowledge that consultations with residents suggest that problems occur at a greater rate in areas with high concentrations of HMOs or where the numbers of occupants within large HMOs exceed a family dwelling. However, the proposal would not increase the number of HMOs, and there is no evidence of the occupancy of those in the area. Moreover, there is no evidence of the problems referred to occurring in this area, nor any indication that the increase by 1 additional person would either singly or cumulatively exacerbate any ill effect, including community cohesion and the quality of the local environment.
13. I conclude on this issue that while I give significant weight to the Council's guidance, the house is already in HMO use and no material change to the balance of uses in the area has occurred. There is no substantive evidence that the proposal has resulted in harm to the mix and balance of the community. It does not therefore conflict with CS policy PCS20.

Other Matters

14. I understand the concerns of neighbours which include additional parking demand and refuse generation. However, an additional occupier is unlikely to place unsustainable pressure on the surrounding street parking or cause environmental harm from waste storage. I note that the highways authority considered the change to a large HMO would not conflict with the Council's Parking Standards, and it did not object.

Conclusion

15. I have found that the development provides an adequate standard of accommodation for the occupiers and it does not result in harm to the mix and balance of the community. While it provides additional accommodation, this does not outweigh its failure to mitigate its effect on the SPAs. For the reasons given above, and taking account of all matters raised, I conclude that the appeal should be dismissed.

Patrick Whelan

INSPECTOR