
Appeal Decision

Site visit made on 3 February 2019

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 19 February 2020

Appeal Ref: APP/Z1775/W/19/3233270
243 Fawcett Road, Southsea PO4 0DJ

- 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 18/01703/FUL, dated 4 October 2018, was refused by notice dated 6 March 2019.
 - The development proposed is change of use from purposes falling within a C4 (house in multiple occupation) to house in multiple occupation for more than 6 persons (Sui Generis).
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Decision

1. The appeal is dismissed.

Application for costs

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

Procedural Matters

3. I have taken the description of development in the heading above from the planning application form. I am not aware that there was any agreement between the main parties to alter the wording of the description of development from what is shown on the application form and so I have used that.
4. As part of the appeal, the appellant has submitted an amended plan (Drawing No. PG.3116.18.SUI Rev B) showing revised room sizes for the lounge and bedroom 7. The appellant says that the plan was revised due to an error in the room sizes. I note that the Council has commented on this plan in terms of its response to the appeal. I am satisfied that the amended plan shows relatively minor changes to the development considered at the planning application stage. Consequently, I shall accept the amended plan for the purposes of determining the appeal and do not consider that any interested party would be prejudiced from a public consultation point of view.
5. The Council's officer report confirms that the appellant, at the planning application stage, provided a payment to the value of £487 to mitigate the likely significant effect of the proposal on the Solent Special Protection Areas. Although I have not been presented with any other details of this payment, in support of the appeal the appellant has submitted evidence to confirm a

payment of £13 to the Council on 7 October 2019 as a 'top up habitat mitigation payment'. I shall return to this matter later.

Main Issue

6. The main issue is whether the proposed development would provide an adequate standard of living conditions for future occupiers, with particular regard to communal living space.

Reasons

7. The appeal property is a mid-terraced house located on the north side of Fawcett Road. The proposal would change the use of the property from a C4 (house in multiple occupation) to house in multiple occupation for more than 6 persons (Sui Generis).
8. Although the appellant's submitted 'existing floor plans' show a dining room on the ground floor, at the time of my site visit I saw that this room was an en-suite bedroom. In total, I saw three en-suite bedrooms and a kitchen at ground floor level, three en-suite bedrooms at first floor level and a further two bedrooms, one of which is shown as a study on the 'existing floor plans', at second floor level. I also saw a lounge at basement level. Notwithstanding the configuration of the rooms that I saw at the time of my site visit, based on the submitted 'proposed floor plans', the development before me is for a total of eight bedrooms arranged over three floors, all of which would be for single occupancy. Thus, the proposed development could accommodate up to eight persons.
9. In regard to the provision of communal living space my attention has been drawn to the Council's 'Houses in multiple occupation (HMOs), Ensuring mixed and balanced communities, Supplementary Planning Document – revised July 2018' (SPD). It indicates that in order to secure a good standard of living accommodation within HMOs, a room that provides a 'combined living space' for seven or more persons should be a minimum of 27 square metres in size.
10. The appellant contends that as the kitchen is around 11.5 square metres and the lounge is around 16.5 square metres, the proposal would provide a combined communal area of about 28 square metres and therefore meets the requirements of the SPD. However, the SPD states that the 'combined living space' is defined as a single, typically open plan space, usually containing a kitchen, dining area and living area, laundry and utility space. The proposal, in so far as the kitchen and lounge are separate rooms on different floors, would not, therefore, provide a 'combined living space' as defined in the SPD. Moreover, although I saw bar stools in the lounge and kitchen, neither room included a dining area with a dining table and chairs. The appellant indicates that a dining table and chairs could be added to the lounge. However, I do not consider the lounge would be of sufficient size to meet the combined living and dining requirements for up to eight persons even taking into account that it would be unlikely that all eight occupiers would be using the room at the same time.
11. The SPD also indicates that separate kitchen, dining and living rooms would provide a good standard of living accommodation, provided all the rooms meet minimum space standards.

12. Although the kitchen meets the minimum space standard required by the SPD, the proposal would not provide a separate dining room. The lounge meets the minimum space standard for a living room as required by the SPD. However, it is in the basement of the property. Taking into account that there would be no dining room and the kitchen is not of sufficient size to include a dining area, the lounge in the basement would amount to the only communal living/dining space for up to 8 persons. There is no outlook from the lounge by virtue of it not having any windows. It has two light wells; however, these are modest in size and so the room does not have access to sufficient levels of natural light. The amount of natural light to the basement lounge is so restricted that reasonable functioning of the space would rely heavily on artificial light. Furthermore, the lounge would be reliant on a ventilation system to provide fresh air.
13. The appellant points out that Portsmouth City Council's '*Standards for Houses in Multiple Occupation*' (SHMO) indicates a living room is not required in circumstances where the kitchen and dining room meets the minimum space standard and all bedrooms are at least 10 square metres in size. Although three bedrooms would be smaller in size than the minimum space standard, he says that if the en-suite bathroom space of each bedroom is included then all bedrooms would be larger than 10 square metres. However, the SHMO states that no bath/shower room can be used for sleeping purposes. Therefore, in this case, in order to comply with the SHMO the en-suite bathroom space should not be included within the calculation of bedroom space, and so a living room of at least 14 square metres is still required over and above the need for a dining room and kitchen.
14. The appellant also says that the proposal would provide much larger bedrooms than planning guidelines dictate. However, this is a matter that attracts neutral weight. Furthermore, the appellant has referred to other appeal decisions¹ for development proposals where smaller than required communal spaces have been outweighed by larger bedrooms. However, I am not aware of the full circumstances of these other cases and in any event, I have determined the appeal on its individual planning merits based on the evidence before me.
15. Overall, the lack of a dining room, in combination with a basement lounge with no outlook, insufficient levels of natural light and reliance on a ventilation system for fresh air, would result in an unduly oppressive living environment for future occupiers.
16. For the reasons outlined above, I conclude that an adequate standard of living conditions for future occupiers would not be provided for in respect of communal living space. Consequently, in this regard, the proposed development would not accord with Policy PCS23 of the Portsmouth Plan 2012 (PP). The Council has referred to Policy PCS20 of the PP in their refusal notice. However, this policy is not directly relevant to living conditions issues.

Other Matter

17. The site is located within the 5.6 km buffer zone of the Special Protection Areas (SPAs) along the Solent coast. As noted above in paragraph 5 the appellant

¹ References APP/Z1775/W/18/3198506 and APP/2018/Z1775/W/18/3208412

has made payments to the Council to mitigate the likely significant effect of the proposal on the Solent Special Protection Areas. Notwithstanding these payments, there would still be a requirement to carry out an Appropriate Assessment. However, regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 indicates the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to approve planning permission. Thus, given my overall conclusion on the main issue it has not been necessary for me to pursue this matter any further.

Conclusion

18. For the reasons given above, and taking into account the other matter raised, I conclude that the appeal should be dismissed.

Andrew Bremford

INSPECTOR