
Appeal Decision

Site visit made on 10 February 2020

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 27 February 2020

Appeal Ref: APP/Z1775/W/19/3240008
24 Walden Road, Portsmouth PO2 8PJ

- 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 Babatunde Bakare against the decision of Portsmouth City Council.
 - The application Ref 19/00419/FUL, dated 13 March 2019, was refused by notice dated 19 July 2019.
 - The development proposed is described as a change of property use from C3 to mixed use C3/C4.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The development has already been implemented, and the dwelling is in active use as a house in multiple occupation (HMO). Whilst this has directly informed my assessment of the development, my decision is based on the submitted floor plan.
3. The application arises in consequence of a city-wide Article 4 Direction which restricts the permitted change from Class C3 to Class C4 of the Town and Country Planning (Use Classes) Order 1987 (as amended). In this context the application was presented as seeking permission for a mixed Class C3/C4 use. This 'mixed use' is referenced within Policy PCS20 of the Portsmouth Plan 2012 (the PP) and described within the Houses in Multiple Occupation Supplementary Planning Document 2018 (the SPD). Its purpose is stated therein as allowing flexibility in changes between Classes C3 and C4.
4. As the dwelling contains 2 double bedrooms and one single bedroom, its potential occupancy is 5 persons. The appellant has however advanced his case on the basis of occupancy by 4 persons. I have therefore considered the appeal on the same basis.

Main Issue

5. The main issue is the effect of the development on the living conditions of occupants of the HMO with regard to the provision of internal living space.

Reasons

6. The SPD sets out minimum floorspace standards for HMOs. Whilst the Council has not cited any development plan policies which specifically require

compliance in its decision, Policy PCS23 of the PP more generally seeks to secure development which provides a good standard of living environment for its users. This can be reasonably taken to include internal floorspace.

7. The Planning Practice Guidance (PPG) states that where a local planning authority wishes to require an internal space standard, they should only do so by reference in their Local Plan to the Nationally Described Space Standard (NDSS). The Written Ministerial Statement issued on 25 March 2015 additionally indicates that after 1 October 2015 policies or supplementary documents setting such standards should be interpreted with reference to the nearest equivalent national technical standard.
8. The bedroom sizes set out within the SPD are indeed same as those set out within the NDSS. However, unlike the SPD, the NDSS does not specify size requirements for other rooms, but instead sets standards based on Gross Internal Area (GIA). Subject to also providing a minimum level of storage space, this allows scope for different internal room configurations.
9. The NDSS sets a minimum GIA of 86.5 m², inclusive of built-in storage, for a 3-bed, 4-person, 2-storey dwelling. Whilst the bedroom sizes all exceed the required standard, and built-in storage appears adequate, based on the appellant's own figures, there is a shortfall in GIA by 5.5 m². This is a slightly higher figure than the shortfall of around 4 m² in the area of 'combined living space' (the open-plan kitchen/living/dining room) identified by the Council using the SPD.
10. In this regard, though the floor area of an outbuilding has also been provided by the appellant, this does not form part of the internal living space, and so cannot be included. Nor can external space within the garden. It is apparent therefore that the amount of internal space provided within the HMO falls short whether considered in terms of the NDSS or the SPD.
11. Within the HMO the shortfall in space is principally expressed in terms of the compact communal kitchen/living/dining room area, the practical use and furnishing of which is clearly also constrained by the building layout. This requires individuals to walk through the kitchen/living/dining room in order to reach the front or back of the dwelling. Considered in terms of use by 4 unrelated adults, the space is unacceptably cramped.
12. I acknowledge that size of the double bedrooms to some extent allows for their flexible use. However, they are, first and foremost, bedrooms, and their size does not therefore fully compensate for the shortfall in communal kitchen/living/dining room space.
13. I also acknowledge that the SPD does not count communal spaces which do not fall within defined room categories. This includes the first floor 'dressing room', and downstairs toilet. However, neither form part of the kitchen/living/dining room. Indeed, the toilet is a separate room which clearly does not serve the same function, and the dressing room is on different floor. This space does not otherwise alter the fact that the kitchen/living/dining room is unacceptably cramped.
14. For the reasons outlined above I conclude that the development provides unacceptable living conditions for its occupants on account of inadequate internal living space. The development therefore conflicts with Policy PCS23 of

the PP which seeks to secure development which provides a good standard of living environment for its users; and supporting guidance in the SPD, and NDSS. The Council also cited Policy PCS20 of the PP in its decision notice, which serves to restrict changes of use from Class C3 to Class C4 where it would lead to an imbalance in the community. However, this is not a matter in dispute, and not therefore relevant.

Other Matters

15. The Council's officer report notes, but then dismisses the potential for the development to have an impact on European sites in the Solent as a result of the release of nitrates in wastewater. Had I been minded to allow the appeal, and thus the circumstances existed in which permission could be granted, this would have been a matter requiring my further attention. As I am dismissing the appeal for other reasons however, I need not consider it any further.

Conclusion

16. For the reasons set out above I conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR