
Appeal Decision

Site visit made on 14 September 2020

by James Taylor BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2020

Appeal Ref: APP/Z1775/W/20/3253960

41 Margate Road, Southsea PO5 1EY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Simon Birmingham against Portsmouth City Council.
 - The application Ref 19/01396/FUL, is dated 11 September 2019.
 - The development proposed is described as 'C4 use (house in multiple occupation) to Sui Generis (house in multiple occupation for more than 6 persons)'.
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Decision

1. The appeal is dismissed and planning permission for 'C4 use (house in multiple occupation) to Sui Generis (house in multiple occupation for more than 6 persons)' is refused.

Application for costs

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

Procedural matter

3. The appellant has lodged this appeal on the basis of the Council not issuing its decision within the prescribed period. However, during the course of the appeal the Council have provided further details of its main concerns. These are the effect of the proposal on the living conditions of future occupiers; and the need to secure mitigation of the likely significant effects on a European protected site. This provides clarity in terms of the reasons why the Council would have refused planning permission had it been able to do so.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of future occupiers having particular regard to the internal space provision.

Reasons

5. The appeal property is a mid-terrace dwelling, with accommodation over three floors, located within a residential area. At the time of my site visit the property was furnished and a number of rooms were occupied. I was able to observe that the lounge was available as private bedroom accommodation.

6. Policy PCS23 of The Portsmouth Plan, Portsmouth's Core Strategy, Adopted 24 January 2012 (CS) states that new development must be well designed and seeks, amongst other things, the provision of a good standard of living environment for future residents of development. This is broadly consistent with the aims of the National Planning Policy Framework (the Framework) which sets out at paragraph 124 that good design is a key aspect of sustainable development. Furthermore, at paragraph 127 it seeks to ensure that planning decisions create a high standard of living conditions. Additionally, paragraph 130 of the Framework sets out that permission should be refused for poor design taking into account local supplementary planning documents.
7. The Council has relevant guidance which was amended in October 2019 entitled Houses in Multiple Occupation – Ensuring mixed and balanced communities Supplementary Planning Document (SPD). The appellant has highlighted that this was amended after they submitted their proposal, and that their development was specifically designed to accord with the earlier guidance. The SPD provides guidance on the internal space standards and, amongst other changes, the amended version increased the required combined living space for six or more persons. However, it is necessary for me to have regard to the relevant policies and guidance at the time of my decision, including in this case, the SPD as amended in October 2019.
8. The SPD sets a standard of 34 sqm for a combined living space for six or more persons. It defines such a space as a single, typically open plan space, usually containing a kitchen, dining area and living area, laundry and utility space. The appellant considers that such requirements are excessive, lack flexibility and are unrealistic within the house types in Southsea. Furthermore, they state that they are double the standards within Southampton and Brighton. However, it is beyond the scope of this appeal to assess whether the SPD requirements are justified for Southsea generally. As such, I have noted the status of the document as guidance and afford it some weight. The proposal provides an area approximately 7 sqm less than the guidance. This notable shortfall weighs against the scheme. However, it is not solely determinative of the appeal. Moreover, I have focused my assessment on the specific context of this appeal, mindful of the local and national policy.
9. The configuration of the combined living space is relatively long and narrow. As such, parts of the room function as a thoroughfare through the living and dining spaces to the cupboard under the stairs, rear garden and the kitchen. This diminishes the functionality of the space and the quality of the living environment for occupants. Furthermore, I note that the rear garden is very limited in size. For example, there is little space for storage, clothes drying and outside recreation. This places greater emphasis on the quality of the internal living space so as to ensure a good standard of living environment for occupants.
10. The appellant has set out that each room would have single occupancy despite several being above the minimum space standard for a double bedroom. The additional private bedroom space available for these occupiers would be beneficial to them but, would not mitigate the pressure felt by occupiers of the smaller rooms. The living conditions of the occupiers of the smaller rooms in particular would be eroded by the development. This is because the proposal would reduce the communal living space to one long narrow room of limited size whilst introducing an additional occupant at the dwelling.

11. I note the provision of an additional shower room over and above the SPD requirements, but also that the second-floor shower room would be less than the bathroom space standard set out in the guidance. Furthermore, the appellant highlights that the proposal has a licence for occupation by no more than seven persons under Section 61 of the Housing Act 2004. I afford these matters, and the lack of objection from the Council's housing officers, some weight. However, these matters do not outweigh my concerns.
12. Both parties have drawn my attention to a number of appeal decisions within the local area. In particular, the appellant has provided examples of appeals where the Inspector has found that the communal living space falls below the standard within the relevant guidance but, did not find that to be detrimental to the living conditions of future occupiers. I have not been provided with full details of the various decisions. Furthermore, based on the evidence provided, whilst I note similarities, none of the examples appear to be identical to the matter before me. As such, I afford them limited weight.
13. Therefore, in conclusion on the main issue I find that the proposal would be harmful to the living conditions of future occupiers having particular regard to the internal space provision. As such, the proposal would be contrary to Policy PCS23 of the CS, Section 12 of the Framework and guidance in the SPD.

Other matters

14. The appeal site lies within 5.6 km of a group of European designated sites known collectively as the Solent Special Protection Areas (SPA). The Council's and Natural England's assessments have concluded that likely significant effects on the European designated sites through recreational disturbance and deterioration of the water environment would occur from the development. Furthermore, these likely significant effects could be mitigated if appropriately secured. The Council has raised concern over a lack of properly secured mitigation towards significant likely effects on the SPA from deterioration of the water environment. However, because I am dismissing the appeal for other reasons, in these circumstances, it is not necessary for me to reach a conclusion on this matter.
15. Finally, I have noted a number of third-party objections including concern that the proposal would not support balanced and sustainable communities. However, as the property is already in use as a house in multiple occupation, I do not find that the proposal to increase the number of occupants by one would lead to any further imbalance.

Conclusion

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

James Taylor

INSPECTOR