
Appeal Decision

Site visit made on 18 May 2021

by J Ayres BA Hons, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 15 June 2021

Appeal Ref: APP/Z1775/W/21/3268231
143 Telephone Road, Southsea PO4 0AX

- 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 Simon Birmingham against the decision of Portsmouth City Council.
 - The application Ref 19/00751/FUL, dated 26 February 2019, was refused by notice dated 10 November 2020.
 - The development proposed is change of use from purposes falling within a C4 (house in multiple occupancy) to house in multiple occupancy for more than 6 persons (Sui Generis).
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The property has already been altered to allow for 7 bedrooms, therefore the change of use has already occurred, and this was visible at my site visit. I have considered the appeal on this basis.
3. During the appeal a unilateral undertaking was submitted to address the second reason for refusal in the Council's decision notice. I shall return to this matter later in my decision.

Main Issues

4. The main issue is whether the proposal would provide adequate living conditions for future occupiers.

Reasons

Living conditions

5. In order to accommodate the additional bedroom a room on the ground floor at the front of the property has been converted to a bedroom. Whilst this has removed communal space there remains a large communal room to the rear of the property which incorporates a kitchen, modest dining area, and lounge area. I am satisfied that this communal space, whilst being somewhat intensive due to the provision of amenity in one single room, is large enough to provide suitable communal facilities.

6. On the second floor bedrooms 2 and 3 are located towards the rear of the property. Bedroom 2 is served by a window in the side elevation. In order to retain the works under the Town and Country Planning (general Permitted Development) (England) Order 2015 (as amended), the window in the side elevation should be obscurely glazed, and non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. The provision of an obscurely glazed window, which would be the only source of natural light in the room, would fail entirely to create a comfortable environment for occupants of that room.
7. Drawing Number PG.3107.18.2 identifies an alternative layout of the property which would insert a window in the rear elevation of the property to serve bedroom 2. In order to provide this window, it would be necessary to create a type of corridor using part of bedroom 3. Whilst this would provide a level of natural light through a clearly glazed window, it would be along a narrow corridor. The area would be problematic to utilise in a way that would benefit the occupier of the room. The room itself would be a contrived space, difficult to arrange furniture, or to use in a coherent way.
8. Bedroom 3 is a relatively modest size bedroom; the bedroom door is located part way along the hallway and therefore there is a small corridor entrance into the room. Its layout would be severely impacted by the removal of some of the already restricted space to provide a form of light tunnel for the adjacent bedroom 2. The effect would be to create an extremely narrow single bedroom, which would be cramped and not conducive to a satisfactory living environment.
9. I note that both bedroom 2 and bedroom 3 comply with the guideline standard for floorspace set out in the Houses in Multiple Occupation SPD, as amended (October 2019) (the HMO SPD). Furthermore, the space to be provided is similar in floorspace figures to a number of permitted schemes elsewhere in the city. However, I do not have specific details of those schemes, particularly floor layout, to allow me to make a meaningful comparison. Furthermore, the floorspace measurements include the entire room, which is reasonable in principle, however bedroom 2 and bedroom 3 include narrow corridor style elements that are not functional space. Therefore, whilst the scheme complies in principle, I have significant reservations that the floorspace provided would be useable in its literal sense.
10. Moreover, having regard to the changes in student learning and behaviour over the past twelve months, I recognise that rooms are likely to be used for activities other than simply sleeping. Students have been required to study from home for significant periods of time, take exams from home, and remain indoors. Furthermore, a house in multiple occupation is not restricted to occupation by students. A house in multiple occupation occupied by a number of strangers may result in those residents using the communal space less and being heavily reliant on the use of their private bedrooms for prolonged periods. As such it is of the utmost importance that the space provided is in a layout that facilitates a comfortable and practical use of the room. The layout of bedroom 2 to include a light tunnel type element, and the effect of this layout on bedroom 3 with regards to a reduction in its size, would fail to achieve a suitable standard of accommodation for occupiers.

11. I understand that a licence has been granted by the City Council's Private Sector Housing Team for use of the property by 7 residents. On the basis of the evidence I do not consider this to suggest that the grant of planning permission should automatically follow. There is nothing in the evidence that leads me to conclude that matters related to adequate and functional living space was considered as part of that licence. I have determined the appeal before me on the merits of the case having regard to the development plan.
12. I find that the proposal would fail to provide adequate living conditions for future occupiers. It would therefore conflict with Policy PCS23 of the Portsmouth Plan (2012) which advises that development will be permitted where it provides a good standard of living environment for future residents.

Conclusion

13. The starting point for any planning decision is Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise. I have found that the proposal would fail to provide adequate living conditions for occupiers and would conflict with the development plan in this regard. There are no material considerations, including the provision of additional accommodation within the city, that outweigh this conflict. Accordingly, the appeal should fail.
14. The appeal site is within the zone of influence of the Solent Special Protection Areas (SPAs). A unilateral undertaking was submitted in accordance with S106 of the Town and Country Planning Act to provide a financial contribution to mitigate against an adverse effect of the proposal on the SPAs. Were I minded to allow the appeal it would be necessary for me to conduct an appropriate assessment. However, as I am dismissing for the reasons set out above it is not necessary for me to address this matter any further.
15. For the reasons above, and having regard to all other matters raised, I conclude that the appeal is dismissed.

J Ayres

INSPECTOR