



Appeal Decision

Site Visit made on 6 July 2021

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 September 2021

Appeal Ref: APP/Z1775/W/21/3269184
118 Prince Albert Road, Southsea PO4 9HT

- 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 20/00276/FUL, dated 20 February 2020, was refused by notice dated 18 January 2021.
 - The development proposed is for the change of use from house in multiple occupancy (Class C4) to seven person/seven bedroom house in multiple occupancy (Sui Generis)
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development was altered by the Council to clarify the scale of occupancy. The appellant subsequently used this description in the appeal form. As this amended description more clearly and accurately describes the proposal, I have similarly used it in the heading for the appeal.
3. At the time of my visit, the change of use had taken place. The internal layout reflects that shown on drawing 19/703/P02SG Rev B and I have considered the appeal on that basis.
4. A revised Framework¹ was issued by the Government prior to the determination of the appeal. Both main parties have had an opportunity to comment on the appeal in the light of the revised Framework.

Main Issue

5. The main issue is the effect of the proposed development on the living conditions of occupiers of the property, with regard to the provision of internal communal space.

Reasons

6. The appeal building is a mid-terrace property with accommodation arranged over three floors and is situated on the west side of Prince Albert Street. The property was a house in multiple occupation (HMO) for 6 people (Class C4). The ground floor front room has now been converted from a lounge to a bedroom with en-suite facilities to provide accommodation for a seventh person thereby changing the use to a Sui Generis HMO.

¹ National Planning Policy Framework (2021)

7. The communal area is provided in the form of one combined kitchen/dining/living space. The galley style kitchen is a good size and provides sufficient space and width for 2 or 3 people to work in the area at the same time. There is a breakfast bar with space for 2 people to comfortably sit and eat without blocking access/doorways; a simple table/bench seating arrangement which looked as though it would seat up to 4 people; and two 2-seater sofas placed opposite each other, allowing access through to the kitchen/dining area beyond. Due to the nature of the property, the space has a long, linear shape. It seems to me that it would therefore be difficult to accommodate more furniture or a different layout that would both retain access through the living area to the kitchen and allow larger tables or additional seating.
8. The Council seeks to ensure a good standard of accommodation is provided for all occupants of HMOs. This is achieved through its Local Plan² and Supplementary Planning Document on HMOs³ (SPD). Amongst other things, these documents provide information and guidance on room sizes and indicate a communal space of 34m² would be the minimum requirement for this property. There is a slight disagreement between the main parties as to the exact size of the communal space provided but based on either calculation it would be approximately 4m² below this minimum requirement.
9. I accept that not all residents may wish to use the communal space at the same time. However, the linear nature of the accommodation and the need to maintain access means that the amount of floorspace given over to the dining/living accommodation in particular, is restricted. As such, it is not a space in which it is easy for a small group of people to comfortably socialise or relax together. An additional occupant is likely to add to the congested nature and feel of the communal space. I also note that the additional occupant would have one of the smaller bedrooms and so there is a real prospect of putting greater pressure on the communal space.
10. I therefore find that the under provision of communal space would cause harm to the living conditions of occupants of the property. Consequently, the proposed development would not accord with Policy PCS23 of the Local Plan, which amongst other things, seeks to ensure that development provides a good standard of living environment for future occupants. The proposal would also be contrary to the SPD, which amongst other things, seeks to ensure that communal spaces within HMOs meet a minimum space requirement. The harm I have found would accordingly lead to conflict with the Framework, in particular paragraph 130, which amongst other things, seeks to ensure development provides a high standard of amenity to existing and future users.

Other Matters

11. The appellant points out that the SPD, in tandem with the Council's Standards Guide⁴, produced by the Council's Property & Housing Department, allows a reduced provision of communal space if all bedrooms are over 10m². In this instance only three of the bedrooms are over this threshold although two others exceed it if their en-suite facilities are included. Nevertheless, this still leaves two bedrooms (over 25% of the bedrooms) below that figure. The

² The Portsmouth Plan – Core Strategy (2012)

³ Houses in multiple occupation (HMOs) – Ensuring mixed and balanced communities (2019)

⁴ Standards for Houses in Multiple Occupation (2018)

guidance does not employ a pro-rata mechanism based on a percentage of bedrooms being over 10m².

12. While these documents are guidance rather than development plan policy, they nonetheless identify the minimum of communal space that would be acceptable, particularly for licencing purposes. However, an assessment for planning purposes cannot always, in my opinion, be based solely on the minimum size of the accommodation that can be provided. In order to meet the development plan expectations and ensure a good standard of living environment, qualitative factors such as the shape of the communal space, its usability and how it would be likely to function may need to be taken into account. In this instance, based on such an assessment, as outlined above, I have found the communal space does not meet the development plan expectations for seven occupants.
13. The appellant points out that a seven person HMO licence has already been granted for the property. However, that is a decision based on other legislation and criteria. I am required to consider the appeal against the development plan and any other material planning considerations. Within that planning context, I do not find that the existence of an HMO licence weighs significantly against the considerable harm I have identified.
14. Both the main parties provided appeal decisions supporting their different opinions. Given the variety of decisions, it is clear that in situations where the provision of communal space is a key issue, the individual circumstance of each property will be a major determining factor. I have therefore reached a decision based on my findings of the evidence before me and the appeal examples provided do not alter my views.
15. Although the appellant suggests that the lounge which previously occupied the ground floor front room was under used, there is no explanation as to why it was under used. However, it would no doubt have been used to some degree and its removal, together with the increase in occupancy and added pressure on the remaining communal space, does not result in a good standard of living environment for occupants.
16. The appeal site is located within 5.6 km of the Portsmouth Harbour Special Protection Area (SPA). In order to mitigate the likely significant effect of the proposal on the SPA, namely the potential recreation disturbance and increased levels of nitrogen and phosphorus entering the water environment, the appellant has indicated that 'credits' from the Council's Mitigation Credit Bank would be purchased. This would be secured via a legal agreement and I have been provided with a copy of the agreement signed on behalf of the appellant. However, given my overall conclusion on the main issue, it is not necessary for me to pursue this matter any further.

Conclusion

17. The proposal would conflict with the development plan taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Stewart Glassar
INSPECTOR