
Appeal Decision

Site visit made on 6 June 2022

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 June 2022

Appeal Ref: APP/Z1775/W/21/3281594

10 Lyndhurst Road, Portsmouth PO2 0DT

- 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 Shane Varcoe against the decision of Portsmouth City Council.
 - The application Ref 20/01389/FUL, dated 24 November 2020, was refused by notice dated 28 May 2021.
 - The development proposed is change of use from C3 dwelling to 7 person house in multiple occupancy (Sui Generis).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue is the effect of the proposed development on the living conditions of occupants of 12 Lyndhurst Road, with particular regard to noise and disturbance.

Reasons

3. The Council's *Houses in multiple occupation (HMOs)– Ensuring mixed and balanced communities Supplementary Planning Document 2019* (the SPD) explains that whilst it is acknowledged that HMOs meet housing needs of many within the city, it is important that the amenity and standard of living environment of neighbours and local occupiers is protected.
4. Number 10 (No 10) is a two-storey terraced property located within a residential street of similar properties. It adjoins Number 12 (No 12), a dwelling, which is adjacent to an existing HMO at Number 14 (No 14).
5. The proposal would not lead to a proliferation of HMOs within the local area. However, it would result in No 12 being 'sandwiched' between two HMOs, No 14 and the appeal property. The SPD identifies that the proximity of HMOs to adjacent dwellings may give rise to a particular risk of harm to amenity and disturbance. It provides a worked examples of where this might arise, one of which is the same scenario as the appeal proposal where a property would be 'sandwiched' between an existing and proposed HMO.
6. Due to the terraced nature of the properties, there would be no separation of No 12 from the proposed HMO. In these circumstances, occupants of this dwelling would be at risk of noise and disturbance on both sides.

7. If well-managed, a HMO would not necessarily cause unacceptable harm to the community in which it is located. Nevertheless, an HMO by nature is occupied by a number of different households. In the appeal scheme, this would be up to 7 unrelated individual occupants. Inevitably, this number of people together with their visitors would result in an increase in comings and goings compared to occupation by a single household. Furthermore, large numbers of people may frequently gather within the communal areas including the large reception/kitchen for cooking or socialising or within the rear garden. In addition, given the nature of the accommodation, occupants would be likely to socialise within private bedrooms at upper floor levels adjacent to bedrooms within the neighbouring dwelling.
8. With this amount of activity either side of No 12, cumulatively it would increase the level of noise and disturbance to occupants of this dwelling. This would be harmful to their living conditions.
9. The appellant has suggested that a condition requiring a scheme of noise insulation could be imposed to address this matter. Whilst this may provide some noise mitigation, it would not overcome the harm from the general level of activity associated with the proposed use including comings and goings and use of the rear garden area.
10. My attention has been drawn to an appeal decision¹ at 12 Malthouse Road, Portsmouth where the Inspector allowed an increase in the concentration of HMOs above the 10% threshold. However, the overall number of HMOs within the locality is not in dispute in this appeal. The decision to which I have been referred is not therefore directly related to the circumstances of the appeal before me.
11. The appellant has submitted a management plan to demonstrate that the HMO would be well managed. I have no reason to dispute this. However, this does not mean that management of the HMO might not change in the future. Furthermore, even with appropriate management in place, the harm arises from the concentration of so many unrelated individuals occupying properties either side of a single dwelling.
12. The absence of an objection or records of complaints about noise and disturbance from the adjoining neighbour does not mean that there would be no harm.
13. I appreciate that the SPD is not adopted policy and should be applied flexibly. However, it explains how Policy CSP20 in relation to HMOs should be applied. It is relevant to the circumstances of the appeal scheme. I do not find that the Council has been unduly rigid in taking this into account.
14. I conclude that the proposed development would significantly harm the living conditions of occupants of No 12, with particular regard to noise and disturbance. It would therefore conflict with Policies CSP20 and CSP23 of The Portsmouth Plan 2012 which only permit changes of use to HMOs where there would not be an imbalance of such uses and requires new development to protect amenity and provide a good standard of living environment for neighbouring occupiers. It would also not comply with the National Planning

¹ APP/Z1775/W/20/3247210

Policy Framework which requires a high standard of amenity for existing users. It would also not accord with guidance set out in the SPD as referred to above.

Other Matter

15. The appeal site is located within 5.6km of the Solent Special Protection Areas. These are European Sites of Nature Conservation Importance and subject to statutory protection under the Conservation of Habitats and Species Regulations 2017. Regulation 63 prevents the competent authority from granting permission unless the proposal would not adversely affect the integrity of the European sites. I am the competent authority for the purposes of this appeal.
16. The Council, in consultation with Natural England, considers that any net increase in residential development within this area is likely to have a significant effect on the integrity of the SPA, either alone or in combination with other plans or projects. This is due to a potential increase in recreational activity and through nutrients entering the Solent water environment.
17. Mitigation may be required to avoid any such adverse effects arising from the proposed development. However, none has been proposed by the appellant. Had I been minded to allow the appeal, I would have sought more information. However, as I am dismissing the appeal for other reasons, I do not need to consider this matter further.

Conclusion

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

Rachael Pipkin

INSPECTOR