



Appeal Decision

Site visit made on 23 August 2022

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2022

Appeal Ref: APP/Z1775/W/21/3289027

15 Shadwell Road, Portsmouth PO2 9EH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Christian Reynolds against the decision of Portsmouth City Council.
 - The application Ref 21/01162/VOC, dated 4 August 2021, was refused by notice dated 9 December 2021.
 - The application sought planning permission for Change of use from dwellinghouse (Class C3) to purposes falling within Class C3 (dwellinghouse) and Class C4 (house in multiple occupation) without complying with a condition attached to planning permission Ref 20/1540/FUL, dated 23 July 2021.
 - The condition in dispute is No 4 which states that: *The occupation of the development hereby approved shall be limited to 4 [four] residents and users.*
 - The reason given for the condition is: *The living accommodation, specifically the communal living space would only provide a good standard of living environment for 4 [four] residents and users to accord with Policy PCS19 of the Portsmouth Plan (2012), the Houses in Multiple Occupation Supplementary Planning Document (October 2019) and the aims and objectives of the National Planning Policy Framework (2021).*
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. On review of the information before me it is evident houses in multiple occupation (HMOs) are not unusual within the Portsmouth area. To that extent the Council has published a Standards of Houses in Multiple Occupation document (Housing document) which sets out the housing and licensing requirements. This has been used to produce the Housing in Multiple Occupation – ensuring mixed and balanced communities Supplementary Planning Document (SPD) and is referred to within the support text for Portsmouth Plan Policy PCS19, which seeks to ensure all housing is adequately sized.
3. The conversion of the appeal property to an HMO was approved by the Council (reference 20/1540/FUL). It was, however, considered necessary to apply condition 4, limiting the maximum number of residents and users of the property. The appellant considers that condition 4 was applied in error and as a result has sought to remove it.

4. The main issue is, therefore, the effect that removing the condition would have on the living conditions of future occupants with particular regard to communal internal space.

Reasons

5. The proposal would seek to convert the house from a 3 to 4 bedroom property by dividing the existing lounge space, with other internal alterations to provide a separate kitchen, dining area, utility room, and additional downstairs toilet. In the absence of the disputed condition the property could have a maximum of 6 occupants. This is because the original permission was for a change of use to class C4, which is limited to a maximum of 6 occupants, and any more would require a new planning permission.
6. The proposed 4 bedrooms would be of large enough sizes that a separate living area space to the kitchen and dining area would not need to be provided, and I am satisfied adequate toilet and bathroom facilities are proposed. On viewing the proposed kitchen location, it is appreciated a small portion of floor space would be unusable due to the position of the door, which may cause the kitchen to fall below the required space standard. Nevertheless, I am satisfied the proposed separate utility room would provide a useable and functional space for future occupants which would overcome the small deficit in kitchen size. A position supported by the Housing document.
7. However, a pathway through the dining area is needed to ensure safe and convenient access to the rear of the appeal property. Such a pathway would reduce the usable floor space to below the minimum size standards as set out in the SPD. I observed that the portion of the room that would still be considered usable would be narrow and despite the furniture depictions on the plans, it has not been adequately demonstrated that suitable furniture for a 6 person dining area could be provided in a good quality or functional space. Thus, the proposed alterations would not provide adequate communal internal space for the maximum occupancy that the removal of condition 4 would allow.
8. Consequently, I find condition 4 is necessary to ensure adequate living conditions for future occupants regarding communal internal space. Its removal would not provide a good standard of living environment for occupants, which is the reason the condition was attached to the original approval. Nor would it comply with Portsmouth Plan Policy PCS19, the SPD or Housing document as described earlier, insofar as they seek to ensure housing conversions are of a reasonable size appropriate to the number of people they are designed to accommodate.

Other Matters

9. The potential of increasing internal space by implementing permitted development rights is noted, but as this has not been enacted, nor are there any firm proposals before me, it does not alter my findings.
10. I appreciate that the Council's Private Sector Housing Team would inspect the property. However, that would constitute an assessment via different regulatory processes, therefore does not lead me away from my decision that is based upon planning policy and other material considerations.
11. The appeal site falls within the Portsmouth City district which is within a catchment area for the Solent Special Protection Area (SPA). It is an area

which, as designated by Natural England, needs action to be taken concerning nutrient neutrality. Regulation 63 of the Conservation of Habitats and Species Regulations 2017 requires an appropriate assessment (AA) to ensure that the development would not adversely affect the integrity of the SPA. However, an AA is not necessary where there is no intention to grant permission (clause 63(1)). Therefore, as I am dismissing the appeal for other reasons, I have not pursued this matter further.

12. Matters relating to elected member intent in relation to opposing the officer recommendation, Council procedures, planning committee decision-making, the enforcement of restrictive planning orders and the use of judicial reviews should be raised directly with the Council.

Conclusion

13. For the reasons above, the removal of the condition proposed, would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations that would indicate a decision otherwise. The appeal is, therefore, dismissed.

RJ Redford

INSPECTOR