



Appeal Decision

Site visit made on 7 November 2022

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2022.

Appeal Ref: APP/Z1775/W/22/3297089

78 Oriel Road, Portsmouth PO2 9EQ

- 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 Christian Reynolds against Portsmouth City Council.
 - The application Ref 21/01446/FUL, is dated 29 September 2021.
 - The development proposed is change of use from house in Class C3 (dwellinghouse) to purposes falling within Class C3 (dwellinghouse) or Class 4 (house in multiple occupation).
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Decision

1. The appeal is allowed and planning permission is granted for change of use from house in Class C3 (dwellinghouse) to purposes falling within Class C3 (dwellinghouse) or Class 4 (house in multiple occupation) at 78 Oriel Road, Portsmouth PO2 9EQ in accordance with the terms of the application Ref 21/01446/FUL, dated 29 September 2021, and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) Prior to occupation of any part of the premises as a house in multiple occupation, details of a covered, enclosed, secure and weatherproof bicycle storage facility for a minimum of 4 bicycles shall be submitted to and approved in writing by the local planning authority. The approved bicycle storage facility shall be installed prior to occupation of any part of the premises as a house in multiple occupation, and thereafter retained.

Preliminary Matters

2. The change of use from a dwellinghouse to a house in multiple occupation under Class C4 would normally be permitted development¹. However, the Council advises that properties in the area, including the appeal property, are subject to an Article 4 Direction made on 1 November 2011 that removed this particular permitted development right, so that planning permission is required for such a change of use.
3. I have taken the description of development from the appeal form as being a more comprehensive description compared to that on the application form.

¹ Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Part 3, Class L

4. The Council has resolved that, had the appeal against non-determination not been made, it would have granted planning permission, subject to conditions. I have had regard to this resolution in determining the appeal.
5. I was unable to enter the property on my site visit. However, I was able to view the site from the road and I am satisfied that I have sufficient information needed to determine the appeal.
6. The plans submitted with the application show a dormer extension to the rear roof slope, 2 front roof lights and alterations to a conservatory at the rear². A different plan displayed in the Council's committee report shows in addition a single storey rear extension³. The appellant intends to make these alterations under residential permitted development rights while the lawful use of the property is that of a dwellinghouse under Class C3, prior to any change of use of the property to a house in multiple occupation (HMO).
7. The extensions are not included in the description of development and do not form part of the appeal proposal. For the avoidance of any doubt this appeal relates solely to the proposed dual use of the property as a dwellinghouse or HMO under Class C4 and does not include any physical alterations to the property.

Main Issues

8. Although the Council has resolved that it would have granted planning permission for the development, several representations have been received both at the application and appeal stages that object to the proposal on a number of grounds. I have had regard to these representations as well as the Council's submitted documents in determining what I consider to be the main issues in this case.
9. The main issues are the effect of the proposed change of use on:
 - The mix and balance of housing in the area
 - The standard of accommodation for future occupants
 - The living conditions of neighbouring occupants
 - The need and availability of parking space
 - The impact on the Solent special protection areas.

Reasons

Mix and balance of housing

10. Policy PCS20 of the Portsmouth Plan 2012 permits changes of use to a house in multiple occupation (HMO) where the community in which it is situated is not already imbalanced by a concentration of such uses or where the development would not create such an imbalance.
11. While recognising the benefits of HMOs as a source of accommodation for certain groups, including for people on low incomes, young professionals, students and one-person households, the policy also recognises that there are

² PG6177.21.01

³ PG6177.21.01 Rev B

potential negative impacts if there is an overconcentration of HMOs in one place. There is also a need for family accommodation (3 or more bedroom dwellings) in the city, the supply of which is reduced by conversion to HMOs. The policy seeks to balance these competing needs by limiting the proportion of HMOs in any one area.

12. The 'Houses in multiple occupation (HMOs) – ensuring mixed and balanced communities' Supplementary Planning Document 2019 provides guidance on the interpretation of Policy PCS20. It says that a community is considered to be imbalanced where more than 10% of residential properties within a 50m radius of the application property would be in HMO use. In this case, the proposed development would increase the number of HMOs from 1 to 2 out of the 74 residential properties within a 50m radius of the appeal site. This would be less than 10% of the properties in that area, and suggests that the development would not lead to an imbalance in the housing mix.
13. In addition to the number of HMOs in the locality, the supplementary planning guidance also seeks to avoid situations where a dwellinghouse would be sandwiched between 2 HMOs, or where there would be a concentration of 3 or more HMOs alongside one another. Neither of these circumstances would arise in this case.
14. Several representations received in response to the original application, including a petition signed by residents in Oriel Road, Wadham Road, Shadwell Road and Ophir Road, criticise the approach adopted in the supplementary planning guidance on HMOs as being too simplistic and express concern about the number of applications being made for HMO conversions of houses in these streets. While I understand the concerns of existing residents, there are also benefits to HMOs which respond to particular housing needs in the city. The supplementary planning guidance provides a consistent and objective approach to striking a balance between those competing needs, and I place weight on it as an adopted document of the Council. Any review of that supplementary planning document would be a matter for the Council, and is beyond the remit of this appeal.
15. Having regard to the supplementary planning guidance on HMOs, I am satisfied that the proposal would not have a harmful effect on the mix and balance of housing in the area and would therefore accord with Policy PCS20 of the Portsmouth Plan 2012, which supports mixed and balanced communities and seeks to ensure that a range of household needs continues to be accommodated throughout the city.

Standard of accommodation for future occupants

16. Policy PCS23 of the Portsmouth Plan 2012 requires, amongst other criteria, a good standard of living environment for future residents and users of the development, and secure cycle storage. The supplementary planning guidance on HMOs and further guidance given in the document 'Standards for Housing in Multiple Occupation 2018' assist with interpretation of the policy by providing minimum standards for room sizes for bedrooms, bathrooms and communal spaces.
17. The proposed accommodation meets or exceeds the suggested minimum room sizes. There is sufficient space in the rear garden area to accommodate secure cycle storage, which can be required by condition. Bicycles would have to be

brought through the property but that would be no different to the current arrangement.

18. The proposed room sizes are in some instances dependent on extensions that do not form part of this appeal. I note that the Council accepts the ability for the property to be extended under residential permitted development rights prior to conversion to an HMO as a material fallback position. It is also the case that the owner would need to obtain a separate licence. Although this is separate from the planning process and has somewhat different aims, it would ensure appropriate standards are met in terms of minimum room sizes and facilities irrespective of whether or not extensions were added to the property prior to its change of use to an HMO.
19. I note that representations received in response to the original application criticise the standards as resulting in cramped accommodation with developers designing their schemes with the smallest possible spaces. However, I have been provided with no evidence that is the case or that the adopted standards are inadequate for their intended purpose.
20. Having regard to all of the above considerations, I conclude that a good standard of accommodation for future occupants would be provided by the development, and it would therefore accord with Policy PCS23 of the Portsmouth Plan 2012, which promotes good design and attractive living environments.

Living conditions of neighbouring occupants

21. Use of the property as an HMO may result in a somewhat different pattern of activities than if it were in use as a family dwellinghouse, because it would be occupied by more adult occupants than the mix of ages inherent in an average family. However, those activities would still be domestic in nature and would be compatible with the existing residential environment and the activities that are associated with it. I do not consider that the use of the property as an HMO would give rise to a form or level of activity that would be harmful to neighbouring properties in the area.
22. Appendix 5 to the supplementary planning document on HMOs notes that historically there has been a greater level of complaint about noise, waste and anti-social behaviour associated with HMOs than other residential properties. Similar concerns were raised in some of the representations received on the application. In this case there is sufficient space to store domestic refuse and recycling bins, and I have no reason to believe that occupiers of this particular development would generate more noise or be more anti-social than other residential occupants. The same considerations apply to any additional demand on local public services, including drainage.
23. The more general concerns that have been expressed relate to the concentration of HMO uses eroding the community values of the area by introducing a more transient population of mostly single individuals into what is a predominantly family orientated neighbourhood. While the conversion of some properties to HMOs may result in a more diverse local population, such uses are responding to the need for HMO accommodation in the city. The policy introduced by the Council to limit the concentration of HMO uses in one place is intended to strike an appropriate balance between these competing needs.

24. Having found above that the proposed use would not conflict with Policy PCS20 of the Portsmouth Plan 2012, I conclude that the proposed use would not harm the living conditions of neighbouring occupants. For the same reasons it would not conflict with Policy PCS23 of the Portsmouth Plan 2012, which requires a good standard of living environment for neighbouring and local occupiers.

Parking

25. No dedicated parking space is provided at the property, and therefore use as an HMO may result in some additional pressure on existing on-street parking capacity. However, Policy PCS20 seeks to control an undue concentration of such HMO uses in any one area, such that any additional pressure for on-street parking would be limited. Additional demand for on-street parking would not therefore be so pressing as to amount to a reason for resisting the proposed change of use. It follows that air quality would not be materially worsened by the proposed use.

Solent Special Protection Areas

26. Several areas of international ecological importance in and around the Solent are experiencing eutrophication from increased nutrients in waste water, which includes waste water generated by properties in Oriel Road. An increase in population could also result in increased recreational disturbance to the areas, which provide feeding grounds for bird populations.
27. However, in so far as the proposed change of use is concerned, there is no material difference in the number of people who could occupy the property within the existing⁴ and proposed use classes⁵, this being limited to 6 residents living together as a household or as a Class 4 house in multiple occupation. The existing use could be more than 6 residents if they were to be regarded as forming a single household, so theoretically the proposal could result in a marginal reduction in the number of occupants, although in practice that would be unlikely.
28. Having regard to the similarities in potential occupation between the existing and proposed uses, I agree with the Council that on average the proposed use is unlikely to generate more waste water than the existing use, and therefore the proposal would not be likely to have a significant effect on nutrient discharges to the Solent special protection areas. This conclusion is further supported by the Portsmouth City Council Updated Interim Nutrient Mitigation Strategy for New Dwellings, June 2022, which reflects Natural England advice. There is therefore no requirement for me to undertake an appropriate assessment under the terms of the Conservation of Habitats and Species Regulations 2017 (as amended).

Conditions

29. In addition to the standard time limit condition, I have also included a condition requiring bicycle storage to be provided in the interests of encouraging a sustainable mode of transport other than the motor car. I consider these conditions meet the guidance in paragraph 56 of the National Planning Policy Framework.

⁴ Use Class C3 dwellinghouses

⁵ Dual use of Use Class C3 dwellinghouses and Use Class C4 housing in multiple occupation

30. There is no need for a condition specifying the approved plans as suggested by the Council, as the development is for a change of use only. The physical alterations proposed by the appellant are intended to be carried out under permitted development rights and do not form part of the proposal being considered in this appeal.
31. The Council also requested another condition be imposed limiting adaption of the building to no more than 6 bedrooms and occupation by not more than 6 persons. I consider such a condition would not be reasonable or necessary for 2 reasons. Firstly, a dual use is sought, and such restrictions would not be reasonable to impose on use of the property as a single dwellinghouse occupied by a family which may contain more than 6 people. Secondly, if used as a house in multiple occupation under Class 4, occupation by more than 6 unrelated people at any one time would in any event require planning permission. The condition is therefore unnecessary.

Conclusion

32. I consider that the development accords with the development plan when taken as a whole, and there are no material considerations which indicate otherwise. Accordingly, I conclude that the appeal should be allowed and planning permission be granted.

Guy Davies

INSPECTOR