



Appeal Decision

Site visit made on 12 June 2023

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 July 2023

Appeal Ref: APP/Z1775/W/22/3304441

302 London Road, Hilsea, Portsmouth PO2 9JN

- 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 Vandenberghe against Portsmouth City Council.
 - The application Ref 22/00714/FUL, is dated 10 May 2022.
 - The development proposed is described as C4 HMO use to Sui Generis HMO use for more than 6 persons.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from use class C4 'House of Multiple Occupancy' to use class Sui Generis 'House of Multiple Occupancy for more than 6 persons' at 302 London Road, Portsmouth, PO2 9JN in accordance with the terms of the application, Ref 22/00714/FUL, dated 10 May 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: TQRQM22116112827723; TQRQM20150143932385; and PG.5050-20-4.
 - 3) Notwithstanding the details shown on PG.5050-20-4, the development hereby permitted shall not be occupied by 7 persons until cycle storage facilities have been installed in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Those facilities shall thereafter be retained for the storage of cycles.

Procedural Matters and Main Issues

2. At the time of my site visit, I noted that the works to provide accommodation for a 7th occupant of the House of Multiple Occupancy (HMO) had commenced but 1 bedroom was not occupied. The appellant confirmed that the property currently only had up to 6 occupants.
3. Following the submission of the appeal against non-determination, the Council has not provided a statement of case nor guidance on the relevant development plan policies. They have, however, submitted some proposed conditions. The appellant has referenced some policies from within the development plan, but these have not been submitted. They have however, submitted the Council's Supplementary Planning Document (SPD) 'HMOs,

ensuring mixed and balanced communities' and this has extracts from certain Portsmouth Plan (LP) policies within it.

4. At application stage interested parties have not raised any specific matters, other than supporting the need for good quality HMO accommodation within Portsmouth. No comments have been received during the appeal process. The property is already in use as a 6 person HMO. It is in a highly accessible location where I observed a mix of housing types, numerous public transport options, as well as local shops and services close by. This accords with the aims of the SPD. From the information submitted by the appellant the site is also within the zone of influence for the Solent Special Protection Area (SPA).
5. Therefore, taking all the above into account, along with my observations on site, I consider the main issues are the effect of the proposed development on the living conditions of existing and future occupants, and the SPA.

Reasons

Living conditions

6. The appeal site includes a large 3 storey property with bedrooms provided on the ground, first and second floor. To the rear of the ground floor is a large communal kitchen with utility space, and a large well-lit living space. This opens out onto a good-sized courtyard garden with cycle storage sheds and a secured rear access to the road.
7. The proposal has converted a secondary lounge, towards the middle of the ground floor into a 7th ensuite bedroom, which is the same size as the existing bedroom above.
8. The internal space provided is of a high standard with spacious and light communal areas along with a reasonable sized private outdoor area. These are compliant with the minimum standards set out in the SPD. It is noted that the plans submitted do not exactly reflect the alterations undertaken on site. Nevertheless, these differences relate only to the internal partitioning of bedrooms and ensembles and do not appear to significantly alter the overall dimensions, of which all are adequate to provide appropriate individual space for the occupants.
9. However, I note the proposed cycle storage does not reflect that which has been built. It would therefore be necessary for the specific details of the cycle storage to be confirmed via condition, but I am satisfied there is ample space to provide adequate storage.
10. Therefore, on the evidence before me, and my observations on site I find the proposal would not have a harmful effect on the living conditions of existing and future occupants. It would comply with LP Policy PCS23 (as described in the SPD) and paragraph 130 of the National Planning Policy Framework (the Framework) insofar as they seek to provide a good standard of living environment for residential developments.

SPA

11. The site is within the impact zone of the SPA which not only needs action to be taken concerning nutrient neutrality but also mitigation for any additional recreational pressure that may occur from new residential development. The

increase in occupants of the HMO, whilst minimal on its own, would contribute to an increased population in combination with other plans, projects, and developments in the area. It would increase the effluent which would require processing. This is understood to be a contributing factor to the nutrient increase in the SPA and requires neutralisation. Its contribution to the increase in population could also lead to an increase in visitors and recreational pressure within the SPA. The susceptibility and vulnerability of the qualifying features of the SPA to such uses means it cannot be concluded that the development would not adversely affect the integrity of the protected site in combination with other projects.

12. As there is nothing before me confirming the contrary, I can only conclude the proposal would likely have a significant effect on the SPA. Therefore regulation 63 of the Conservation of Habitats and Species Regulations 2017 (Habitat Regulations) require an appropriate assessment to be undertaken to ensure any mitigation proposed is suitable.
13. Nutrient neutrality and recreational pressure on the SPA have been long-standing issues within the Portsmouth area and the Council has specific and defined contribution strategies to deal with mitigation for both issues. A signed agreement under section 111 of the Local Government Act 1972 has been submitted by the appellant. This confirms the contributions have been paid. The Council have acknowledged the agreement and confirmed that the contributions have been received.
14. Natural England have been consulted accordingly and they are content that this course of action would be sufficient to ensure that any adverse impact on the integrity of the SPA and its relevant features can be appropriately mitigated against. I have no reason to take a different view.
15. Therefore, I am satisfied that sufficient compensation has been made for any additional harmful effect the proposed development may have on the SPA, in accordance with the Framework insofar as it seeks to protect and enhance biodiversity and habitats.

Other Matters

16. I acknowledge the various appeals the appellant has drawn my attention to and consider my findings to accord with their conclusions.

Conditions

17. The Council has suggested 3 conditions which I have considered against advice in the Framework and Planning Practice Guidance. As a result, I have amended them for consistency and clarity.
18. In addition to the standard time limit condition, I have imposed a condition requiring the development to be carried out in accordance with the approved plans as this provides certainty. It is noted that plan PG.5050-20-4 specifically states that all rooms (7 in total) are for single use, and therefore I am satisfied it is not necessary to also include an occupancy condition.
19. Due to the discrepancies between the proposed and built cycle storage, I have found it necessary to attach condition 3 to ensure the storage is appropriately sized.

Conclusion

20. For the reasons given above, the appeal scheme would comply with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, that would indicate a decision otherwise. The appeal is, therefore, allowed and planning permission granted.

RJ Redford

INSPECTOR