
Appeal Decision

Site visit made on 11 December 2023

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2023

Appeal Ref: APP/Z1775/W/23/3318886

32 Norman Road, Southsea PO4 0LP

- 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 Robert Leatherland against the decision of Portsmouth City Council.
 - The application Ref 19/01849/FUL, dated 29 November 2019, was refused by notice dated 12 October 2022.
 - The development proposed is describes as the change of use from C4 (house in multiple occupation) to 7 person, seven bedroom, Sue Generis (house in multiple occupation 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 C4 (house in multiple occupation) to 7 person, seven bedroom, Sue Generis (house in multiple occupation for more than 6 persons) at 32 Norman Road, Southsea PO4 0LP in accordance with the terms of the application, Ref 19/01849/FUL, dated 29 November 2019 subject to the attached schedule of conditions.

Applications for costs

2. An application for costs was made by Mr Robert Leatherland against Portsmouth City Council. This application is the subject of a separate Decision.

Procedural Matters

3. At the time of my site visit, the proposal had been completed and there were 7 occupants of the appeal property.

Background and Main Issues

4. The main issues are the effect of the proposed development on the living conditions of existing and future occupants regarding internal communal space, and the Special Protection Areas.

Reasons

Living conditions

5. The appeal property is a 3-storey terraced property used as a house of multiple occupancy (HMO). It provides bedrooms across all 3 floors and previously communal space was provided in 2 rooms to the rear of the ground floor with access onto a private garden area. These rooms provided a total of 36sqm of

communal space, the smaller being 10.22sqm and the larger 25.78sqm (according to the sizes shown on the submitted plans).

6. The proposal has changed the use of the smaller of the 2 living spaces into a 7th bedroom which has left the larger room the only communal space. This room is rectilinear in form, dual aspect and provides living, dining, and kitchen facilities. The main parties agree that no physical works have been undertaken to facilitate this change of use.
7. My attention has been drawn to a previous appeal¹ on the site, whereby the Inspector found the proposed communal space provision to be acceptable for 7 occupants, notwithstanding the marginal shortfall in relation to the 27sqm set by the Council's Supplementary Planning Document (SPD) 'HMOs, ensuring mixed and balanced communities'.
8. However, since that decision was issued the SPD was updated in October 2019. It is understood this was to reflect the standards required by HMO licensing. The SPD now states a minimum of 34sqm for a combined kitchen, dining and living space for 6 or more persons.
9. Nevertheless, Policy PCS23 of The Portsmouth Plan (LP) does not expressly require compliance with the SPD. Amongst other things, it simply states that in new development the provision of a good standard of living environment for the future users would be sought. Therefore, although the minimum standards provided in the SPD would be a reasonable starting point for determining whether the communal space provision is appropriate, it is important that planning judgement is still engaged.
10. The communal space provided is regular in shape and provides a clear path between the rear door and property's main corridor thus allowing unhindered access to the rear garden when the living space is in use. Although undersized the physical form of the room allows for a functional space usable by multiple individuals at one time. Thus, I concur with the previous Inspector's conclusions and find the communal living space acceptable.
11. The Council has drawn my attention to a dismissed appeal at 15 Shadwell Road². In this case the Inspector concluded an increase in occupants within that HMO was unacceptable due to the layout of the proposed communal space, notwithstanding the size provided. On review of that appeal, it is evident that the communal space was provided over 2 rooms, a kitchen and dining room. Due to the proportions of the dining room, it was considered that it could not function as proposed due to the amount of space needed to provide unhindered access to the rear garden. As the scheme before me provides a singular multi-functional communal space including unimpeded access to the rear garden, I am satisfied the 2 schemes are not directly comparable.
12. Consequently, 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 and would comply with LP Policy PCS23.

¹ APP/Z1775/W/18/3217420

² APP/Z1775/W/21/3289027

Special Protection Areas (SPA)

13. 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. As there is nothing before me to the contrary, I can only conclude the proposal would likely have a significant effect on the SPA.
14. However, 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.
15. Natural England have been consulted by the Council on this matter during the appeal process. They do not object to the scheme and consider this strategy sufficient to ensure that any adverse impact on the integrity of the SPA and their relevant features can be appropriately mitigated against. I have no reason to take a different view.
16. Therefore, I am satisfied that the proposal can sufficiently mitigate against any additional harmful effect the proposed development could have on the SPA, in accordance with LP Policy PCS13 as far as it seeks to protect green infrastructure including protected habitats.

Other Matters

17. Although not forming part of its reasons to refuse, the Council has touched on matters relating to waste storage, parking, and the living conditions of occupants of neighbouring properties. Nevertheless, I am satisfied the proposal would not have a harmful impact in relation to these issues. This is due to the modest increase of occupancy proposed, that on-road parking is controlled by permit along Norman Road and adjoining streets, and appropriate waste storage can be secured by condition.
18. My attention has also been drawn to a fallback position based on the outcome of 12 enforcement appeals³. However, as I am allowing the appeal, I have not pursued this matter further.

³ Appeal references APP/Z1775/C/20/3245106, APP/Z1775/C/20/3246078, APP/Z1775/C/20/3245110, APP/Z1775/C/20/3246079, APP/Z1775/C/20/3245108, APP/Z1775/C/20/3246077, APP/Z1775/C/19/3233187, APP/Z1775/C/19/3236610, APP/Z1775/C/19/3234941, APP/Z1775/C/19/3266831, APP/Z1775/C/19/3238003, and APP/Z1775/C/19/3238287

Conditions

19. The Council has suggested several conditions which I have considered against advice in the National Planning Policy Framework (the Framework) and Planning Practice Guidance. As a result, I have amended them for consistency and clarity.
20. As the development is complete it is not necessary to apply a condition stipulating any development timeframe. However, for clarity I have imposed a condition setting out the approved plans. Condition 2 has been imposed to ensure the proposed use is clear and enforceable. Whilst conditions 3 and 4 will secure appropriate cycle and waste storage provision for the appeal property, taking account of the increase in occupancy. The 3-month period used in conditions 3 and 4 has taken into account the information required and the limited complexity of their implementation.
21. The Council has also proposed a condition relating to water usage to reduce the impact of wastewater on the SPAs. Notwithstanding that water usage is controlled by Building Regulations, mitigation for the impact on the SPAs has already been secured and therefore I find the need for this condition unjustified in this instance.

Conclusion

22. 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.

RJ Redford

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 32normanrd1250; 32normanrd500; and PG.3000.18.21.
- 2) The occupation of 32 Norman Road shall be limited to 7 persons.
- 3) Unless within 3 months of the date of this decision a scheme for cycle storage is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 3 months of the local planning authority's approval, the occupation of 32 Norman Road shall be limited to 6 persons until such time as a scheme is approved and implemented.

Upon installation of the approved cycle storage, it shall thereafter be maintained and retained for the storage of cycles.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the

time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 4) Unless within 3 months of the date of this decision a scheme for waste storage is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 3 months of the local planning authority's approval, the occupation of 32 Norman Road shall be limited to 6 persons until such time as a scheme is approved and implemented.

Upon installation of the approved waste storage, it shall thereafter be maintained and retained for the storage of waste.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

END OF SCHEDULE