



Appeal Decision

Site visit made on 13 February 2024

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2024

Appeal Ref: APP/Z1775/W/23/3319580

32 Telephone Road, Southsea PO4 0AY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr S Birmingham against the decision of Portsmouth City Council.
 - The application Ref is 20/00753/FUL, dated 8 July 2020, was refused by notice dated 7 March 2023.
 - The development proposed is described as change of use from C4 House of multiple occupation to Sui Generis House of multiple occupation for more than 6 persons.
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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 8 March 2024.

Decision

1. The appeal is allowed and planning permission is granted for the change of use from C4, House of multiple occupation, to Sui Generis, House of multiple occupation for more than 6 persons, at 32 Telephone Road, Southsea PO4 0AY in accordance with the terms of the application, Ref 20/00753/FUL, dated 8 July 2020, 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: TQRQM19241113917153; TQRQM19241113708099; and PG4101-19-03.
 - 3) The occupation of 32 Telephone Road shall be limited to 7 persons.
 - 4) Prior to occupation of the property by 7 persons, cycle storage facilities shall be installed in accordance with details that shall first have been submitted to and approved in writing by the local planning authority, and those facilities shall thereafter be retained for the storage of cycles.
 - 5) Prior to occupation of the property by 7 persons, waste storage facilities shall be installed in accordance with details that shall first have been submitted to and approved in writing by the local planning authority, and those facilities shall thereafter be retained for the storage of waste.

Procedural Matters

2. The National Planning Policy Framework (the Framework) was updated in December 2023. However, in relation to this case, the sections pertinent to this appeal have not changed to such an extent as to affect the matters raised by

the main parties. It has not therefore been necessary to seek their views, nevertheless I have referenced the revised version in my decision.

Main Issues

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

Reasons

Living conditions

4. The appeal property is a 3-storey residential property used as a house of multiple occupancy (HMO). The Council have granted an HMO license for 7 occupants and the property currently includes 2 communal areas one being a kitchen/diner, 3 shower rooms with toilets, and 2 further separate toilets.
5. The proposal would alter the internal layout to provide a separate kitchen, dining room and a larger lounge. This would exceed the minimum communal space standard for 7 occupants as required by the Council's HMO – Ensuring a mixed and balanced communities Supplementary Planning Document (SPD). However, to accommodate this additional communal space, the proposal would reduce the bathroom facilities by 1 shower room and 1 separate toilet, and all would be on the upper floors of the property. Although this would reduce the bathroom facilities at the same time as increasing the number of occupants, it would still be in accordance with the standards of the SPD. It has also not been shown that there is a development plan policy or standard within the SPD requiring that a toilet must be provided on the ground floor.
6. Therefore, from the information before me and my observations on site I find that the additional communal space would balance the reduction in shower and toilet facilities to provide acceptable living conditions, and it would be within the continuum of differing provisions the SPD allows for, so would not constitute an over intensification of use. As such it would be for potential future occupants to determine whether the ratio of communal space to bathroom facilities are suitable for their needs.
7. 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 Policy PCS23 of the Portsmouth Core Strategy Plan (CS) as far as it requires new development to provide a good standard of living environment.

Solent Special Protection Areas

8. The site is within the impact zone of the Solent Special Protection Areas (SPA) which not only need 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. The increase in occupancy would increase the amount of effluent produced which is understood to be a contributing factor to the nutrient increase in the SPA, thus 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.

9. 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 confirming they have paid the necessary contributions in accordance with the afore mentioned strategies and the Council have confirmed payment. Natural England has endorsed this strategy and consider it 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.
10. 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 CS Policy PCS13 as far as it seeks to protect green infrastructure including protected habitats.

Other Matters

11. The Council has drawn my attention to a potential fall-back position relating to what has been considered development in terms of occupancy. However, as I am allowing the appeal, I have not pursued this matter further.

Conditions

12. The Council has suggested several 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.
13. 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 (conditions 1 and 2). Condition 3 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.
14. 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 by financial contribution and therefore I find the need for this condition unjustified in this instance.

Conclusion

15. 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, which would indicate a decision otherwise. The appeal is, therefore, allowed.

RJ Redford

INSPECTOR