



Appeal Decision

Site visit made on 10 July 2024

by R Cahalane BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th September 2024

Appeal Ref: APP/Z1775/W/24/3338328

29 Greenwood Avenue, Portsmouth, City of Portsmouth PO6 3NP

- 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 Oliverball Serviced Apartments Ltd. against the decision of Portsmouth City Council.
 - The application Ref is 23/00875/FUL.
 - The development proposed was described as: "C3 residential use to dual use C3 /C4 HMO Use."
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Decision

1. The appeal is allowed and planning permission is granted for change of use from dwellinghouse (Class C3) to purposes falling within Classes C3 (dwellinghouse) or C4 (House in Multiple Occupancy) at 29 Greenwood Avenue, Portsmouth, City of Portsmouth PO6 3NP in accordance with the terms of the application, Ref 23/00875/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development in my decision above differs from that contained in the planning application form which is within the banner heading above. The parties have agreed to this description change and I have determined the appeal on this basis.
3. The proposed plans include a single storey rear extension approved under a prior approval application, and this approval is also referred to in the officer report (Ref: 23/00038/GPDC). This was completed at the time of my site visit. It was also clear that this extended dwelling was already in use as a House in Multiple Occupation (HMO). I have therefore determined the appeal on the basis that permission is being sought retrospectively for the change of use as depicted on the submitted plans.

Main Issue

4. The main issue is whether the HMO provides acceptable living conditions for its occupants, having regard to the quality and quantity of the communal space.

Reasons

5. The appeal dwelling (No. 29) comprises a two-storey semi-detached dwelling and has a non-standard layout, insofar as the communal kitchen is located on the first floor, whereas the communal "lounge" room is located on the ground floor. The entrance door to the HMO is to the side and opens into a very small

hallway. To the left is a door opening into the lounge room and to the right is the stairs up to the first floor. There are four bedrooms with ensuite shower rooms directly accessed off the lounge room.

6. Policy PCS23 of the Portsmouth Plan (Portsmouth's Core Strategy) 2012 (the PP) states that all new development must be well designed and also seeks, amongst other things, the provision of a good standard of living environment for future residents of the development. More specific advice for HMOs is provided in the Council's Houses in Multiple Occupation Supplementary Planning Document (2019). This sets out, amongst other things, minimum space standards and refers across to the Council's separate licensing advice¹.
7. The Council does not dispute that the size of No. 14's existing communal kitchen (11sq m) meets the minimum size requirement for kitchens as set out in the abovementioned published advice for HMOs. Its objection however stems from the lack of defined dining space serving the HMO, as its published advice requires the HMO to be provided with a minimum of 14sq m of communal dining space. The Council accepts that the ground floor communal lounge room meets the size standard of 14sq m but considers this space to be inadequate as a communal room, due to its location near to the entrance to this house and its stairs, and with four of its six bedrooms accessed directly off this space.
8. During my site visit, I noted that the existing kitchen occupied the same floor as two of the bedrooms and contained a small seating area along its countertop. This appeared to be of sufficient size for two people to dine at, but is clearly inadequate for six people.
9. At the time of my visit, the layout of the ground floor lounge room included a 4-seater sofa, two single armchairs, and a wall mounted television. Some natural light is provided by a side elevation window, and the proportions of the room and the logical layout of furniture and facilities within it enable a reasonably spacious and functional layout. I accept that the provision of a dining table in this lounge room would impede access and, in this respect, the layout does not follow the Council's published advice. I nonetheless found that it is still possible to provide six seating spaces in this communal space without impeding any through access to the HMO entrance and its ground floor bedrooms. This space therefore gives the opportunity for residents of the HMO to safely mix and relax in each other's company, and it was evident from my visit that the HMO is set up for this purpose.
10. The Council's objection also relates to the location of the communal rooms. As already set out above, I have found that the first-floor kitchen provides sufficient space for two people to dine. Given that HMO residents often live subject to various work patterns, I consider it unlikely that all six occupants would dine at the same time. If, however, residents carry their meals downstairs to the communal lounge or their bedrooms, I have found that this can be done in a safe manner. All doors are hinged to open away from each other, and the HMO entrance door includes a large obscure-glazed panel that allows sufficient visibility of someone about to enter the property before passing. Given this along with the overall scale of the HMO, the chance of a significant mishap along this route is low, and therefore does not justify the

¹ Standards for Houses in Multiple Occupation - A guide to understanding the basic standards for Houses in Multiple Occupation - September 2018

refusal of planning permission.

11. I therefore conclude that the proposed HMO provides acceptable quality and quantity of communal space for six occupiers. Consequently, no conflict arises with Policy PCS23 of the PP, or the National Planning Policy Framework which seeks development to achieve a high standard of amenity for existing users.

Other Matters

12. As the appeal property can be lawfully used as a dwelling, the proposal would not result in any significant loss of privacy for the occupants of neighbouring houses. Given the number of surrounding houses, the proposal is unlikely to result in unacceptable levels of additional noise. Nor is there any firm evidence to suggest that the development would lead to significantly increased anti-social behaviour, a materially adverse effect on the supply of housing in the borough, additional drainage problems, or place an undue impact on the local family community. The access and parking arrangements would be satisfactory and there is no evidence that highway safety or emergency access or egress would be compromised. The fact that the application is retrospective is not a reason in itself to dismiss the appeal. I have assessed the development on its own merits against the relevant material planning considerations.

Conditions

13. The Council has suggested three conditions in the event that the appeal is allowed. I have considered these against the tests in the Framework and Planning Practice Guidance, and have amended their wording, where necessary, as set out below.
14. I have not imposed the standard time limit condition for implementation, bearing in mind that the development is retrospective in nature. It is however necessary to impose a condition to confirm the approved plans, in the interests of clarity. I have however amended the Council's suggested wording as a compliance condition, given the retrospective nature of the appeal.
15. Condition 2 is necessary and reasonable, to meet the needs of the HMO residents and to encourage sustainable modes of transport. I have amended the Council's suggested trigger point for this condition, as the development is retrospective in nature. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure the approval and implementation of the cycle storage area before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met.

Conclusion

16. For the reasons given above the appeal should be allowed.

R Cahalane

INSPECTOR

Schedule of Conditions

- 1) The development hereby approved relates to the following list of approved plans: Location Plan - TQRQM23192143034443; Block Plan - TQRQM23145142234611; Floor/Elevational Plans - PG.8107.12.04.
- 2) Unless within six months of the date of this decision a scheme for the provision of secure and weatherproof bicycle storage facilities for 4 bicycles is submitted to and approved in writing by the local planning authority, or the approved scheme has not been implemented as approved within six months of the date of the local planning authority's written approval, the use as a house in multiple occupancy shall cease until such time as an approved scheme has been provided and implemented.

Upon implementation of the approved scheme specified in this condition, it shall be provided at the site and shall thereafter be retained for the parking of bicycles at all times.

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