



Appeal Decision

Site visit made on 11 February 2025

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 March 2025

Appeal Ref: APP/Z1775/W/24/3350955

27 Balfour Road, Portsmouth PO2 0DH

- 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 M Griffiths of MGSG Enterprise Ltd against the decision of Portsmouth City Council.
 - The application Ref is 24/00269/FUL.
 - The development proposed is the change of use from a C3 dwelling to Sui Generis HMO.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from a C3 dwelling to Sui Generis HMO at 27 Balfour Road, Portsmouth PO2 0DH in accordance with the terms of the application, Ref 24/00269/FUL, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing nos:

Drg No: PG.8207.23.4	Sui Gen Plan
Drg No: 1	4 Cycle Storage Shed
 - 3) The development hereby permitted shall not be occupied until the cycle storage shed has been provided, in accordance with Drg No:1 for four bicycles to be stored and shall thereafter be maintained and retained for the storage of bicycles.

Main Issues

2. The main issues are whether:
 - future occupants would be afforded adequate living conditions with particular reference to internal communal space; and
 - the proposed development would be likely to have a significant effect on the integrity of the Solent Special Protection Area (the Solent) with particular regard to nitrates and recreational disturbance.

Reasons

Living conditions

3. It is common ground between the main parties that the proposed communal area would exceed the floorspace required for 7 occupiers, as set out in the Council's Houses in Multiple Occupation Supplementary Planning Document (SPD), even without the entrance hall area. However, by meeting this standard it does not mean that a development would provide a good standard of living for future residents by default but that a room's layout and usability is also a key factor.
4. Notwithstanding the above, aside from the entrance hall area, no substantive evidence has been presented which identifies how the layout and usability of the communal area prevents the future occupants being afforded a good standard of living. The Sui Gen Plan indicates how the number, type and size of facilities required for day-to-day private domestic existence could be accommodated within the kitchen area, with a further area capable of providing dining space. Despite being long and narrow, the kitchen/dining room provides a sufficient amount of space within a usable layout to enable a variety of domestic activities to be supported, including cooking and eating, doing laundry and socialising.
5. I conclude that future occupants of the development would be afforded adequate living conditions, with particular reference to the quantum of communal space. It would, therefore, comply with Policy PCS23 of the Portsmouth Local Plan (the Local Plan) which, amongst other provisions, requires new development to provide a good standard of living for future residents.

Integrity of the Solent SPA

6. Special Protection Areas (SPA) are European Designated Sites afforded protection under the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations). The natural conservation interest of the Solent SPA results from the various birds supported by the habitat, particularly during the winter months. The protection of the Solent seeks to ensure that migratory birds can feed undisturbed whilst they build up energy reserves to survive the winter before journeying back to their breeding grounds. Two key issues which prevent the Solent from meeting this objective relate to an increase in wastewater being discharged into it and additional recreational pressures placed on the area.
7. Wastewater can include pollutants or nutrients, such as nitrates and phosphates, which affect water quality. This can result in a process known as eutrophication which speeds up the growth of certain plants, threatening the aquatic ecosystem by damaging the Solent's plants and wildlife, including the habitats and food available for the protected birds. Public access to the Solent increases the risk of disturbance to the birds and this can lead to increased bird mortality or a reduction in amount of energy an individual bird has available at the end of the winter should it move away from the feeding ground.
8. As the proposed development would add to the number of people living within the area, it would also increase the amount of wastewater being discharged into the Solent. It is therefore likely that the proposed development, taken both in isolation and cumulatively with other projects, would have a significant adverse effect on the integrity of the Solent. Consequently, it is necessary for me, as the competent

authority, to conduct an Appropriate Assessment concerning the effect of the development on the integrity of the Solent.

9. The approach to avoiding or mitigating significant effects to the Solent comprises securing contributions towards the Council's nutrient neutral¹ and recreation² migration strategies. These are calculated on the increase in annual nitrogen and prosperous input resulting from the proposed development and the number of additional bedrooms proposed.
10. Contributions can be paid either prior to the grant of planning permission as an upfront payment or prior to commencement if secured by an appropriate legal agreement. The SPD, therefore, provides sufficient information for me to conclude that the obligations sought are necessary, related directly to the development and fairly related in scale and kind. As such they would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the Framework's planning obligations tests. Natural England was consulted during the determination of the planning application, raising no objection subject to appropriate mitigation being secured.
11. During the appeal, a copy of a signed and dated S111 Agreement between the appellant and the Council was submitted, including evidence that the appropriate contributions had been paid directly to the Council. Therefore, I am satisfied that the S111 Agreement secures the necessary contributions which would enable the delivery of mitigation sufficient to address the level of harm likely to be caused by the development. I therefore find that, subject to the agreed mitigation, the proposed development would not result in an adverse effect on the integrity of the Solent, with particular regard to nitrates and recreational disturbance. In this respect, it accords with Policy PCS13 of the Local Plan.

Conditions

12. In addition to the standard conditions relating to the timescale and approved plans, I have imposed a condition requiring the cycle store to be erected prior to the occupation of the HMO to support the use of alternative methods of transport to the private car.
13. As the plans listed include the works to be carried out under permitted development rights, it is not necessary for me to attach a separate condition requiring these works to be completed prior to occupation. It is not necessary for this condition to include the tail piece wording suggested as any deviations from the plans would need to be approved by the Council. I have not imposed the water efficiency condition as this relates to a matter which is covered by Building Regulations. It is not, therefore, necessary to make the proposed development acceptable in planning terms.

Conclusion

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

Juliet Rogers

INSPECTOR

¹ Interim Nutrient Neutral Mitigation Strategy for New Dwellings, dated November 2019

² Solent Recreation Mitigation Strategy, dated December 2017