
Appeal Decision

Site visit made on 3 June 2025

by **C Rose BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 June 2025

Appeal Ref: APP/Z1775/W/24/3354859

236-244 Fratton Road, Portsmouth PO1 5HH

- 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 Harry J Weston against the decision of Portsmouth City Council.
 - The application Ref is 24/00467/FUL.
 - The development proposed is construction of 3 storey building for use as a 9 bedroom/9 person House in Multiple Occupation (resubmission of 23/00240/FUL).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal has been accompanied by a signed agreement under S111 of the Local Government Act 1972 (the legal agreement) to mitigate the impacts from future occupiers on the Solent Special Protection Areas. The Council have confirmed that the legal agreement overcomes reason for refusal number 3, and as I have no reason to disagree, I do not need to deal with this as a main issue.
3. During the course of the appeal an updated version of The National Planning Policy Framework (the Framework) was published on the 12 December 2024. In light of this, the main parties were given the opportunity to comment on any implications for the appeal. I have taken the comments into account.

Main Issues

4. The main issues are the effect of the development on:
 - the living conditions of the users of the rear courtyard to Fratton Community Centre, with particular regard to privacy, outlook and loss of sunlight; and,
 - the living conditions of the adjacent occupiers at No.236-244 Fratton Road, with particular regard to noise and disturbance and the mix and balance of housing in the area.

Reasons

Fratton Community Centre

5. Fratton Community Centre is located to the northeast of the site with a rear external courtyard adjoining part of the appeal sites northern and eastern boundaries. The courtyard is used as an external play area. These boundaries comprise a separating wall that the appellant refers to as being 4650mm high. However, at the

time of my site visit, when viewed from within the appeal site, the boundary wall was considerably lower.

6. While I acknowledge that the ground floor of the proposed building would be screened behind the boundary wall to the Community Centre, parts of the first and second floors would be visible above the wall. By reason of the height of the proposed building combined with its close location to the boundary wall and courtyard it would result in an overbearing and oppressive effect on the users of the courtyard resulting in an unacceptable sense of enclosure. Furthermore, and while I acknowledge that the boundary wall would provide some shading and loss of direct sunlight to the courtyard, the proposed height, bulk and position of the proposed first and second floors would result in a slightly greater and more harmful level of overshadowing from midday onwards, particularly in winter months when the sun is lower in the sky.
7. I have had regard to the 3D Sketch Views A and B provided by the appellant but given that the boundary wall is lower than indicated, these do not demonstrate an acceptable relationship with regard to the bulk and position of the proposal.
8. My attention has been drawn to a planning permission on the site¹ and related appeal decision² for the erection of two-storey extensions. However, the Council advise that this development can no longer be implemented and is different to the current proposal by reason of a greater depth of projection at upper floor level. In light of this and given that I do not have full details of the planning permission, I am unable to conclude that it is directly comparable to the current proposal. Furthermore, I am required to consider the appeal proposal on its merits.
9. Proposed Bedroom 05 at first floor level would have its main window facing towards the courtyard. With the exception of a small window to the en-suite, the bedroom is not proposed to be served by any other windows. By reason of the close proximity of the main window to the courtyard to the Community centre and given that the height of the existing boundary wall would enable some direct views into the courtyard, the proposal would result in an unacceptable loss of privacy to the users of the courtyard.
10. I have considered the comments from the appellant suggesting that this window could be conditioned to be obscure glazed but given that it is the main window to the bedroom and would also need to be fixed shut to prevent overlooking, this would result in an unacceptable loss of outlook and resultant poor living conditions for the occupiers of this bedroom. While this matter could potentially be addressed through the re-positioning of the window to the north elevation, this is not reflected on the plans or proposal before me.
11. It follows from the above that I conclude that the development would harm the living conditions of the users of the rear courtyard to Fratton Community Centre, with particular regard to privacy, outlook and loss of sunlight. As such, it is contrary to Policy PCS23 of The Portsmouth Plan Portsmouth Core Strategy 2012 (PP). Amongst other things, this states that new development must be well designed and protect amenity and provide a good standard of living environment for neighbouring and local occupiers as well as future residents and users of the development. For

¹ 11/00624/FUL

² APP/Z1775/A/11/2164766

the same reasons, the proposal is contrary to the Framework that seeks to create places with a high standard of amenity for existing and future users.

236-244 Fratton Road

12. The proposed building would be located to the rear of the three-storey building forming No's 236-244 Fratton Road within a densely developed mixed residential and commercial area. No's 236-244 Fratton Road comprises 4 flats at ground floor, with 2 flats on each of the first and second floors. These flats would share their pedestrian access off Fratton Road with the HMO. No.240 Fratton Road is in use as an HMO and is located at second floor level.
13. PP Policy PCS20 permits houses in multiple occupation (HMO) where the community in which it is situated is not already imbalanced by a concentration of such uses or where the development would not create such an imbalance.
14. While recognising the benefits of HMOs as a source of accommodation for certain groups, including for people on low incomes, young professionals, students and one-person households, the policy recognises that there are potential negative impacts if there is an overconcentration of HMOs in one place creating an unbalanced community and causing harm to living conditions of nearby occupiers.
15. The 'Houses in multiple occupation (HMOs) – Ensuring mixed and balanced communities' Supplementary Planning Document 2019 (SPD) provides guidance on the interpretation of PP Policy PCS20. It states that a community is considered to be imbalanced where more than 10% of residential properties within a 50m radius of the area surrounding the application property are already in HMO use. Appendix 5 to the SPD outlines the evidence of harm caused from the correlation between HMO's and the living conditions of residents in their proximity.
16. In this case, the development would not increase the number of HMOs to greater than 10% within a 50m radius of the appeal site. Furthermore, I have little evidence before me that the proposed 9 bedrooms would unacceptably harm the character of the area. As a result, the proposal would not lead to an imbalance in the housing mix.
17. Notwithstanding, PP Policy PCS23 requires proposals to protect the amenity of, and the provision of a good standard of living environment for neighbouring and local occupiers.
18. In relation to living conditions, my attention has been drawn to Worked example 3 to Appendix 6 of the SPD with regard to 'sandwiching' and HMOs potentially giving rise to a particular risk of harm to amenity and disturbance.
19. Worked example 3 states that particular regard will be had to potential adverse implications to amenity arising from a proposal that would result in the 'sandwiching' of property between existing and proposed HMOs. The Council acknowledge that the appeal proposal is not a typical terrace conversion as detailed in the worked example.
20. I acknowledge that the appeal proposal would result in one of the first-floor flats within the existing building being adjacent to the proposed HMO and immediately below the existing HMO at No.240 Fratton Road sharing the same pedestrian access. I also acknowledge that the other second floor flat would physically adjoin the HMO at No.240 with its staircase adjoining the appeal proposal to its rear.

21. However, the existing flats at ground floor would only be adjoined by an HMO to the rear with the other non-HMO flat at second floor only having an HMO to one side. While I recognise that this second floor flat would also be close to the proposed HMO building, the flat itself would be physically detached from the proposed HMO and accessed via a separate staircase. As such, the relationship is different to Worked example 3 where a dwelling is physically adjoined on both sides by an HMO. Given this and given that the second floor flat would not adjoin an HMO below or to its other side, I find that it would not be 'sandwiched' or lead to potential adverse implications to the living conditions of occupiers.
22. While I also recognise that the kitchen to the first floor flat below No.240 Fratton Road would adjoin the proposed HMO as well as No.240, by reason of the remainder of the flat being physically separated from the proposed building, access off a separate staircase with no HMOs to either side or below, this relationship is also significantly different to Worked example 3. As such, I find that it would not be 'sandwiched' or lead to potential adverse implications to the living conditions of occupiers.
23. It is noteworthy that the proposal has been amended to ensure that room sizes and layout meet the standards set out in the SPD.
24. It follows from the above that I conclude that having regard to the supplementary planning guidance on HMOs, the development would not result in a harmful effect on the living conditions of the adjacent occupiers at No.236-244 Fratton Road, with particular regard to noise and disturbance and the mix and balance of housing in the area. As such, in relation to this main issue it is not contrary to PP Policies PCS20 and PCS23 and the SPD, the aims of which I have outlined above. For the same reasons, in relation to this main issue, the proposal complies with the Framework that seeks to create places with a high standard of amenity for existing and future users.

Other Considerations

25. The proposal would result in the provision of housing in a location accessible to a range of services and facilities. Furthermore, it would provide some economic benefits from construction and future spend by occupiers. These benefits weigh in favour of the development, but I give them moderate weight due to the scale of the proposal.
26. In contrast however, the proposal would result in harm to the living conditions of neighbouring occupiers. The relevant policies in these regards are largely consistent with the Framework where it states that planning decisions should create places with a high standard of amenity for existing and future users. Therefore, the proposed development is contrary to the development plan as a whole.
27. The Council cannot demonstrate a five-year supply of deliverable housing sites, and I have no reason to disagree. In light of the submission of the legal agreement referenced above and given that the Council have received the related payment, I have no reason to conclude that this would not adequately mitigate any likely significant effects on the Solent Special Protection Areas. As a result, these matters do not provide a strong reason for refusing the development proposed under paragraph 11d) i. of the Framework and paragraph 11d) ii. is engaged.

28. The HMO would provide benefits by adding to the supply of housing, economic benefits from construction and adding to local spend from occupiers. However, given the small scale of the development and the harm identified to living conditions, I find that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole having particular regard to policies in the Framework for securing well-designed places. This is because paragraphs 129 and 135 of the Framework require that developments secure well-designed, attractive and healthy places, add to the overall quality of the area, promote health and well-being with a high standard to amenity for existing and future users and as I have found above that the proposal would not achieve this resulting in significant harm in this regard.
29. The proposal does not therefore benefit from the presumption in favour of sustainable development given by paragraph 11 of the Framework.

Conclusion

30. Although I have found no harm with regard to the effect on the living conditions of the adjacent occupiers with particular regard to noise and disturbance and the mix and balance of housing in the area, or to designated habitats, I have found that the development would harm the living conditions of neighbouring users. In my view, this is the prevailing consideration, and the development should be regarded as being in conflict with the development plan, when read as a whole.
31. Material considerations, including the Framework, do not indicate that the development should be determined other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude the appeal should be dismissed.

C Rose

INSPECTOR