

Appeal Decision

Site visit made on 23 June 2017

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 July 2017

Appeal Ref: APP/Z1775/W/17/3169402

239 Powerscourt Road, Portsmouth PO2 7JJ

- 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 Alex Venables against the decision of Portsmouth City Council.
 - The application Ref 16/02009/FUL, dated 28 October 2016, was refused by notice dated 9 February 2017.
 - The development proposed is change of use from C3 property to C4 House in Multiple Occupation (HMO).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from C3 property to C4 House in Multiple Occupation (HMO) at 239 Powerscourt Road, Portsmouth PO2 7JJ in accordance with the terms of the application, Ref 16/02009/FUL, dated 28 October 2017, subject to the following conditions on attached Schedule A.

Application for costs

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

Main Issue

3. The main issue is the effect on the proposal on the living conditions of residents in the surrounding area, having regard to parking provision, noise and disturbance.

Reasons

Living conditions

4. The appeal property comprises a two storey mid-terraced property on Powerscourt Road which is close to the junction with Bedhampton Road. The appeal site does not benefit from any off-street vehicle parking and none can be provided.
 5. The Council has stated that there would be significant increased pressure for parking in an area which is at over-capacity citing third party representations. In this regard, third parties have indicated that their parked cars are a significant walk away from their residential properties, especially for those with
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- children and elderly. The Appellant has acknowledged the difficulties of finding parking space at peak times.
6. However the Council's Parking Standards and Transport Assessments Supplementary Planning Document (SPD) 2014 requires 2 car parking spaces for the current dwelling use and the same for the HMO use. Furthermore the HMO property is close to a high frequency bus route and within a short walk of the North End District Centre. Such accessibility to shops, services and transport facilities would substantially reduce the necessity for a car by future occupiers. For all these reasons, it has not been demonstrated that there would be a significant worsening of the current car parking issues that have been identified.
 7. Turning to noise and disturbance, the proposed Class C4 HMO would comprise between 3 and 6 persons. Although the persons within the HMO are unrelated, there is no evidence that they would generate greater activity than a typical family household or group of people living as a household. The proposed use would, therefore, be unlikely to have an unacceptable impact on the living conditions of the occupiers of neighbouring dwellings by reason of noise and disturbance.
 8. My attention has been drawn to an April 2017 cost application appeal in Southsea. I have no reason to disagree with this Inspector that it is legitimate to hold views contrary to the Appellant because matters such as discussed here involve judgement. In this regard, the Council can have regard to local representations based on well-founded planning reasons and evidence. However the Council has not substantiated its position reading parking especially given its own parking SPD guidance does not show any difference in parking requirements between a Class C3 (dwellinghouse) and a Class C4 HMO. Furthermore it has not identified any differences between the two use classes to account for any material differences which would result in greater noise and disturbance that is harmful to the living conditions of residents.
 9. At Ormskirk in West Lancashire, there was a dismissed appeal for a change of use to a 5 Bed student HMO in 2017. However the Inspector had evidence of specific incidents associated with existing HMOs and the proposal involved a HMO specifically aimed at students to which this evidence related to. The proposed HMO would have also been in close proximity to another. Such considerations do not apply here based on the information before me and therefore there are distinctions to be made between this appeal proposal and that before me.
 10. The Council's Houses in multiple occupation Ensuring mixed and balanced communities (SPD) states that an 'imbalanced community' will be where more than 10% of residential properties within the area surrounding the proposed property are already in HMO use. In this case, third parties have disputed that the percentage of HMOs would be less than 10% in accordance with the catchment criteria of the SPD. However no detailed evidence has been produced for me to find that the HMO percentage is higher than 10%. Therefore it has not been proven that the loss of this family sized dwelling would be harmful to retaining a mixed and balanced community.
 11. In conclusion, the proposal would not harm the living conditions of residents, having regard to parking provision, noise and disturbance, for the reasons indicated. Accordingly the proposal would not conflict with policies PCS17 and

PCS23 of the Portsmouth Plan, which collectively and amongst other matters requires the need to avoid unnecessary car journeys, 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.

Other matters

12. A rear dormer has been constructed and there are objections of overlooking and loss of light resulting from it. However the proposal before me is for a change of use to a six person HMO and whether or not the dormer has been constructed as permitted development is a matter between the Council and the Appellant to consider outside of this appeal. Similarly the change of use of the property to a seven person HMO is not proposed and thus not a matter to be considered here.
13. Representations were made to the effect that the rights of local residents under the Human Rights Act 1998, Article 8 and under the First Protocol Article 1, would be violated if the appeal were allowed. I do not consider this argument to be well-founded because I have concluded that the proposed development would not cause unacceptable harm to the living conditions of residents. The degree of interference that would be caused would be insufficient to give rise to a violation of the rights.

Conditions

14. In the interests of certainty, a condition is necessary ensuring that the development is carried out in accordance with the approved plans. To promote sustainable modes of transport, a condition is necessary requiring the submission, implementation and retention of secure cycle parking facilities. To ensure the provision of adequate waste disposal facilities, a condition is necessary requiring the submission, implementation and retention of a refuse and recycling facilities.

Conclusion

15. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be allowed.

Jonathon Parsons

INSPECTOR

Schedule A

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 the following approved plans: location plan titled stanfords for business; PG.1096. 16 1 and PG 1096 16 2 Rev B.
3. No part of the building shall be occupied in conjunction with the permitted use until facilities for the secure and weatherproof parking of the bicycles have been provided within the site in accordance with a scheme which has been submitted to and approved in writing by the local planning authority. Thereafter the approved cycle parking facilities shall be retained and kept available for such use in accordance with the approved details.
4. No part of the building shall be occupied in conjunction with the permitted use until facilities for the storage of refuse and recycling have been submitted to and approved in writing by the local planning authority. Thereafter the approved refuse storage and recycling facilities shall be retained and kept available for such use in accordance with the approved details.