

## Appeal Decision

Site visit made on 4 January 2017

**by R Barrett BSc (Hons) MSc Dip UD Dip Hist Cons MRTPI IHBC**

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

**Decision date: 14 February 2017**

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**Appeal Ref: APP/Z1775/W/16/3159492**

**Anstey Hotel, 116-118 Clarendon Road, St Jude, Southsea PO4 0SE**

- 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 JDI Developments Ltd against the decision of Portsmouth City Council.
  - The application Ref 16/00917/FUL dated 6 June 2016, was refused by notice dated 19 August 2016.
  - The development proposed is change of use from hotel (Class C1) to 25 bedroom house in multiple occupation (Sui Generis) (HMO) with cycle and refuse storage.
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### Decision

1. The appeal is allowed and planning permission is granted for change of use from hotel (Class C1) to 25 bedroom house in multiple occupation (Sui Generis) (HMO) with cycle and refuse storage at Anstey Hotel, 116-118 Clarendon Road, St Jude, Southsea PO4 0SE, in accordance with application Ref 16/00917/FUL dated 6 June 2016, subject to the conditions set out in Annex A to my decision.

### Procedural Matters

2. An application for costs was made by JDI Developments Ltd against Portsmouth City Council. This application is the subject of a separate Decision.
3. The Council's description of development more accurately describes the development sought. I have therefore used it in the banner heading above and my formal decision in paragraph 1 of this decision letter.

### Main Issues

4. The appeal site is included within the East Southsea Conservation Area (ESCA). Having regard to the statutory requirements of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the main issues in this case are the effect of the appeal proposal on the character or appearance of the ESCA and the living conditions of neighbouring occupiers, with regard to noise and disturbance.

### Reasons

#### *Living Conditions*

5. The appeal site includes an end of terrace three storey Victorian property, with a stucco decorative frontage and two full height projecting bays. It includes a basement and accommodation in the roof.
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6. At the time of my site visit, some rooms within the appeal site were occupied and one of the kitchens was in use. It has, in the past, been used as a hostel for homeless people and a hotel/guest house. A Certificate of Lawful Development was granted in 2009 for its use as a hostel<sup>1</sup>. Planning permission was granted for its use as a hotel/guest house within Class C1 in 2011<sup>2</sup>. Both of those uses would generate activity, comings and goings of residents in addition to staff who would work there.
7. The appeal proposal would involve internal alteration to refigure rooms and accommodate additional ensuite bathrooms. It would not increase the number of rooms, materially alter the number of potential occupants, the main access from the street or the general location of refuse storage and collection. It would include internal cycle storage. Therefore, I consider that the comings and goings and general activity of the proposed use would not be materially different to the previous uses. As the proposed number of rooms would not be increased, even though it could be used as future residents' primary residential accommodation, it would not represent a more intensive use than previous uses. Whilst visitors, in association with the proposed use, would generate activity, this would not be materially greater, and in all likelihood less than the cumulative comings and goings of staff and residents of a hotel/guest house at the appeal site.
8. In any event, I have noted that the properties either side are a small block of flats and an HMO. The locality generally has a mix of flats, houses, HMOs and some other uses such as shops. It has a generally mixed feel. Notwithstanding the comments from the Council's environmental health officer, and discounting the previous uses, I am unconvinced that the activity that would be generated by the proposed use would be greater than nearby uses and would have an adverse effect on the living conditions of neighbouring residents. This is because it would not be out of character in this locality.
9. I acknowledge the Council's concern and those of local residents that HMOs in a locality can have negative social, economic and environmental consequences. However, most are related to a situation where there is a local concentration of HMOs. As a consequence of this appeal the community would not be imbalanced by a local concentration of HMOs. Its concentration would be well below the 10% stated in the Portsmouth City Council HMO Supplementary Planning Document (2012), using the methodology within that document.
10. I note the concern of the Council and some local residents that the proposed use would result in a local concentration of anti-social behaviour. I have also noted the evidence before me of incidents of anti-social behaviour and disturbance at the appeal site and the concern of neighbours that the appeal site has been a source of noise, disturbance and anti-social behaviour in the past and has resulted in a fear of crime in the locality. However, such matters are influenced by considerations such as the management of the HMO and the behaviour of the occupants. Such matters are not controlled under the planning regime. They are controlled by other legislation and I am making a decision on the basis of the planning merits of the appeal alone. The proposed development could, in principle, therefore, contribute towards promoting safe and accessible environments where crime and disorder, and the fear of crime,

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<sup>1</sup> Ref: 08/02203/CPE

<sup>2</sup> Ref: 11/00335/FUL

do not undermine the quality of life or community cohesion as set out in paragraph 69 of the Framework.

11. I conclude that the appeal proposal would not adversely affect the living conditions of neighbouring occupiers, with regard to noise, disturbance and anti-social behaviour. For this reason it would generally accord with Policies PCS20 and PCS23 of The Portsmouth Plan (TPP) and paragraphs 17 and 19 of the National Planning Policy Framework. These, together, seek to encourage HMOs which do not result in negative social, environmental and economic impacts of high concentrations of HMOs on communities and to secure a high quality of design and a good standard of amenity for all existing and future occupants of land and buildings.

#### *Conservation Area*

12. The character and appearance of the Conservation Area is varied, but is mainly mixed residential, including houses of various sizes, flats both in subdivided Victorian properties purpose built blocks and HMOs. It also includes uses such as shops and commercial buildings. A pleasing characteristic are the Victorian residential properties that line the streets. With a mixture of brick with stucco detailing and traditional timber windows and doors, they give the Conservation Area a generally cohesive feel. As there is a mix of types and tenures of residential property and some commercial uses and shops, it has a generally mixed feel.
13. The appeal development would include minor alterations to the exterior of the appeal building. It would not adversely affect the external decoration or remaining Victorian features. The proposed refuse collection arrangements would enable internal storage which would improve the cohesion of the appeal site frontage. Together, the alterations proposed would be minor and would generally preserve the character and appearance of the Conservation Area. Further, on the basis of my previous findings, the proposed use would not be out of character.
14. I have very limited substantive evidence to lead me to conclude that the appeal premises would change over time, such that it would harm the character and appearance of the ESCA. I have no assurance that washing would hang in the windows, food would be stored on window cills or curtains would be permanently closed to protect privacy. In any event, those matters are due to the chosen way of living of future occupiers, rather than the proposed use in itself and are not controlled under the planning regime.
15. I conclude that the appeal development would preserve the character and appearance of the ESCA and would generally accord with TPP Policy PCS23. That policy states that all new development must be well designed and, in particular, respect the character of the city.

#### **Other Matters**

16. It has been brought to my attention that there is a listed building at 7 Eastern Villas Road, to the rear of the appeal site. However, on the basis of the previous use of the appeal site and the limited external alterations that would be involved, along with the separation distance, no material harm would result to the special architectural or historic interest of that property, or its generally urban setting.

17. I am aware of the local need for hotels and the contribution that they make to the local economy. Whilst the appeal would result in the loss of a hotel/guest house, there is no policy protecting such uses before me. In any event, there is also a need to meet the housing needs of the city, as set out in TPP Policies PCS19 and PCS20, which together seek a mix of housing to meet an identified need.
18. I noted the parking restrictions on Clarendon Road on my site and was able to assess the parking conditions. The Council considers that there is little capacity to accommodate additional parking on-street in the locality. On the basis of my site visit, I have no reason to take an alternative view. The appeal development would not include off-street parking. On the basis of previous uses of the appeal site as a hotel/guest house and hostel, there is unlikely to be a material increase in the parking demand generated from the appeal site. Therefore it would not give rise to additional parking demand and pressure in the locality.
19. The Council suggests that the resultant living conditions would be cramped with few resources. On my site visit I was able to assess the proposed layout and visited a selection of rooms. The two communal kitchens and lounges, which would each serve roughly half of the future occupants, would be large enough to accommodate cooking space and sitting and eating space. On the basis of my site visit and the plans before me, I consider that the proposed rooms would provide adequate usable internal space. Each would have an ensuite and they could accommodate some internal storage space. Generally, the layout would be usable and the circulation space adequate. Overall, I consider that the appeal development would provide satisfactory living conditions.
20. I have noted the concern of a local resident that Clarendon Road has had a lot of new development recently, which has harmfully increased the local population. However, I have limited substantive evidence to suggest that any local increase in population as a result has been harmful. I therefore attach little weight to this matter.
21. City of Portsmouth Tree Preservation Order No 189 (Eastern Villas Road/ Clarendon Road) has been brought to my attention. I note that some of those protected trees overhang the rear garden of the appeal site. However, as the proposed development would not include development close to those trees, no material harm would result to them.

### **Planning Conditions**

22. A list of suggested conditions is before me. I have agreed with the imposition of most of these, subject to refinement to improve clarity and ensure consistency with national policy and guidance.<sup>3</sup> A list of conditions to be imposed is set out in Annex A to my decision.
23. Standard time and plans conditions are required to ensure clarity and in the interests of proper planning. Conditions to secure the cycle and refuse and recycling facilities are necessary to promote sustainable forms of development. Conditions to secure measures set out in the Flood Risk Assessment and a Flood Warning and Evacuation Plan are necessary to secure the safety of future occupiers.

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<sup>3</sup> Paragraphs 203 and 206 of the Framework and PPG paragraphs 21a-001-034

## **Conclusion**

24. Section 38(6) of the Planning and Compulsory Purchase Act (2004) sets out that any determination to be made under the planning Acts must be made in accordance with the development plan unless material considerations indicate otherwise. The appeal development would accord with the development plan and I have identified no material considerations to lead me to a different conclusion. The appeal development therefore falls within the definition of sustainable development. For the above reasons, and taking all other matters raised into consideration, I conclude that the appeal should be allowed.

*R Barrett*

INSPECTOR

## **Annex A**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with approved plans: 16.2150.103 Rev\_P3; 16.2150.104 Rev\_P2; 16.2150.105 Rev\_P2; 16.2150.106 Rev\_P1.
- 3) The HMO use hereby permitted shall only be carried out in accordance with the measures set out in the submitted Flood Risk Assessment and at no time shall any bedroom or sleeping accommodation be provided within the basement level.
- 4) Prior to the first occupation of the property as an HMO a Flood Warning and Evacuation Plan shall be submitted to and approved in writing by the Local Planning Authority. The property shall thereafter be operated in accordance with the provisions of the approved Flood Warning and Evacuation Plan.
- 5) Prior to the first occupation of the property as an HMO the cycle storage facilities shown on drawing no.16.2150.103 Rev\_P3 shall be provided. The cycle storage facilities shall thereafter be retained as approved thereafter.
- 6) Prior to the first occupation of the property as an HMO facilities for the storage and collection of refuse/recyclable materials shown on drawing no.16.2150.103 Rev\_P3 shall be provided. The refuse/recyclable storage facilities shall thereafter be retained as approved.