

1 EDMUND ROAD SOUTHSEA PO4 0LL

**CHANGE OF USE FROM PURPOSES FALLING WITHIN CLASS C4 (HOUSE IN MULTIPLE OCCUPATION) TO A 7 BEDROOM HOUSE IN MULTIPLE OCCUPATION (SUI GENERIS)**

**Application Submitted By:**

Thorns Young Ltd  
FAO Mr Sam Appleton

**On behalf of:**

Mr Dave Stanley

**RDD:** 12th July 2017

**LDD:** 7th September 2017

**SUMMARY OF MAIN ISSUES**

The main issues to be considered in the determination of this application are the appropriateness of such a use in the context of the balance of uses in the surrounding area and whether it complies with policy requirements in respect of provision of an adequate standard of accommodation. Other considerations are whether the proposal would have a detrimental impact on the living conditions of adjoining and nearby residents, SPA mitigation and car and cycle parking.

The site

This application relates to a two-storey end of terrace dwellinghouse located on the north side of Edmund Road, just to the east of Fawcett Road. The property is setback from the footway and benefits from a front forecourt and an enclosed rear garden.

The proposal

The applicant seeks permission for a change of use from purposes falling within Class C4 (house in multiple occupation) to a 7-bedroom house in multiple occupation (Sui Generis), for 7 or more persons.

Relevant planning history

There is no relevant planning history for this site. To confirm the lawful use of the property the following evidence is identified:

- o The previous owner has submitted a statutory declaration confirming that the property was let between three to five students continuously since before 1st November 2011.
- o Tenancy agreements from September 2014 to present day confirming five unrelated tenants occupied the property.
- o Council tax records have been made available that confirm the names of five occupiers of the property from September 2011 to September 2014.
- o Private Sector Housing confirms the property was licensed from 21st February 2014 for five persons. This record does not however confirm how many people occupied the property from this date onwards.

It is, therefore, considered that on the property has a lawful use as a HMO within Class C4.

**POLICY CONTEXT**

In addition to the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS12 (Flood Risk), PCS17 (Transport), PCS20 (Houses in

Multiple Occupation) and PCS23 (Design and Conservation). The revised Houses in Multiple Occupation Supplementary Planning Document (HMO SPD, November 2017), Parking Standards SPD and Solent Special Protection Areas SPD would also be material considerations.

## **CONSULTATIONS**

### **Highways Engineer**

None.

### **Environmental Health**

Upon looking at the plans, the ground floor lounge at the front of the property will be converted into a bedroom making it a seven bedroom property instead of six. It would appear that the property has previously been rented out to students and therefore I have searched Environmental Health's complaints data base and can confirm that we have not received any noise complaints associated with this property.

The change of use is also unlikely to generate significant traffic movements in the area.

We therefore do not wish to raise any objections to this application being granted.

### **Private Sector Housing**

Definitions - Dwelling and Flat: Housing Act 2004, Part 1, Chapter 1, Section 1 (5).

"Dwelling" means a building or part of a building occupied or intended to be occupied as a separate dwelling.

"Flat" means a separate set of premises (whether or not on the same floor)-

- (a) Which forms part of a building
- (b) Which is constructed or adapted for use for the purposes of a dwelling, and
- (c) Either the whole or a material part of which lies above or below some other part of the building.

The proposal is for the change of use from purposes falling within Class C4 (HMO) to a 7-bedroom house in multiple occupation (sui generis)

In summary, there are no adverse comments to be made by the Portsmouth City Council Private Sector Housing Team regarding the proposal.

A mandatory licence is required; please note the following amenities are to be provided.

#### **Personal hygiene**

A WC unit must be a minimum of 1300mm x 900mm, a total of 1.17sqm and include a WC and wash hand basin (WHB).

A bath / shower room must include a WC, bath/shower and a WHB. The layout of the bath/shower room must be suitable to provide a changing and drying area.

The wall finishes and flooring shall be readily cleanable, the flooring well fitted and non-absorbent, and a suitable lock provided to the door.

#### **Combined kitchen/dining and lounge**

The kitchen area must be a minimum of 11sqm in a combined kitchen/dining and lounge. The following facilities must be supplied:

- \* 2 x conventional cookers (a combination microwave may be used in lieu of a second cooker)
- \* 1 x double bowl sink and integral drainer (a one and half bowl sink is acceptable where a dishwasher is provided)
- \* 2 x under the counter fridge and a separate freezer or 2 x equivalent combined fridge/freezer
- \* 4 x 500mm base units and 2 x 1000mm wall units with doors or equivalent
- \* Worktops 2500mm (l) x 500mm(d)
- \* 3 x twin sockets located at least 150mm above the work surface.

## **REPRESENTATIONS**

One representation has been received objecting on the ground of loss of a family dwellinghouse.

## COMMENT

The determining issues are the appropriateness of such a use in the context of the balance of uses in the surrounding area, whether it complies with policy requirements in respect of provision of an adequate standard of accommodation, any detrimental impact on the living conditions of adjoining and nearby residents, SPA mitigation and parking/waste.

Principle of the use

Planning permission is sought for the use of the property as a 7-bedroom sui generis HMO.

Policy PCS20 of the Portsmouth Plan states that applications for the change of use to a HMO will only be permitted where the community is not already imbalanced by a concentration of such uses or where the development would not create an imbalance. The adopted Houses in Multiple Occupation SPD (HMO SPD November 2017) sets out how Policy PCS20 will be implemented and details how the City Council will apply this policy to all planning applications for HMO uses.

Paragraph 1.15 of the HMO SPD (adopted 21 November 2017) states: "Where planning permission is sought to change the use of a Class C4 or mixed C3/C4 use to a HMO in Sui Generis use, the City Council will seek to refuse applications 'in areas where concentrations of HMOs already exceed the 10% threshold.' "

Based on information held by the City Council, of the 73 properties within a 50 metre radius of the application site, 21 are considered to be in lawful use as a HMO inclusive of No.1 Edmund Road. Therefore, as the granting of planning permission for this sui generis HMO use would retain the proportion of HMOs in the area at 28.76%, it is considered that the community is already imbalanced by a concentration of HMO uses.

Having regards to the balance of uses in the surrounding area, it is considered that the community is currently imbalanced by a concentration of residential properties and HMO's uses therefore the proposal is not considered to be acceptable in principle and contrary to policy PCS20.

Standard of accommodation

In terms of internal living conditions, the property benefits from the following:

Area:	Provided:	Required Standard: (HMO SPD-Nov 2017)
Bedroom 1 (Second floor - in roof)	9.97sqm*	7.5sqm
Bedroom 2 (Second floor - in roof)	10.64sqm	7.5sqm
Bedroom 3 (First floor)	14sqm	7.5sqm/11.5sqm
Bedroom 4 (First floor)	10.98sqm	7.5sqm
Bedroom 5 (First floor)	11.94sqm	7.5sqm/11.5sqm
Bedroom 6 (Ground floor)	11.7sqm	7.5sqm/11.5sqm
Bedroom 7 (Ground floor)	11.52sqm	7.5sqm/11.5sqm
Shower rm 1 - for 7-10 persons (First floor)	5.32sqm	3.74sqm
Shower rm 2 - for 7-10 persons (First floor)	3.42sqm	3.74sqm
Combined living space - 7 or more persons (Ground floor)	26.18sqm	27sqm
Storage (Ground floor)	1.23sqm	

[\* potentially up to another 5.6sqm floorspace but it is unclear whether this is usable due to restricted height of accommodation within the existing roofslope]

The existing C4 HMO use provides two areas of communal living space, a (front) lounge at 11.52sqm and a (rear) kitchen/dining space of 26.18sqm ie a total of 37.7sqm floorspace. The proposed 7-bedroom sui generis HMO seeks to create a seventh bedroom from the existing ground floor lounge. As a result, the proposal would provide a single combined living space at 26.18sqm that would fall short of the minimum requirements and fail to provide an adequate standard of living accommodation to facilitate 7 or more persons sharing outlined at page 9 of the revised HMO SPD (November 2017). In addition, one of the two existing first floor 'shower' rooms, at only 3.42sqm, also falls marginally short of the minimum floorspace requirements by 0.32sqm resulting in a more cramped or restricted layout for its changing and drying area.

The City Council's Private Sector Housing Team (PSHT) has been consulted as part of the determination of this application. They confirm that the standard of accommodation and the associated facilities are sufficient (subject to detailed comments on the size of kitchen within any combined living space). It should be noted that there is a degree of variation between the standards that are acceptable for the Licencing regime and the newly adopted minimum standards identified in the HMO SPD (November 2017).

The licensing process would also ensure adequate fire safety measures and could provide assistance should the property not be managed appropriately. In addition, other legislation is available beyond the planning system to address concerns relating to any anti-social behaviour at the property.

Notwithstanding the comments from Private Sector Housing, the LPA is not bound by the requirements of the Housing Act 2004. The planning system will generally seek to improve upon the bare minimum (as demonstrated by the minimum bedroom floor area set out within the Technical Housing Standards at 7.5sqm for a 'single' and 11.5sqm for a 'double') to provide a good quality of living environment for future occupants, whether that be within a dwellinghouse (Class C3) or within shared accommodation (Class C4 & Sui Generis HMOs).

Subject to licensing requirements, four of the seven bedrooms meet the minimum space standard of 11.5sqm for a 'double' as potentially capable of accommodating more than 7- persons. The existing/proposed bedroom(s) are considered to provide an acceptable degree of natural light, ventilation and outlook. However, in light of the assessment above, it is considered that provision of a single combined living space at 26.18sqm would fall short of the minimum requirements and fail to provide an adequate standard of living accommodation for future occupation by 7 or more persons sharing.

#### Impact on residential amenity

It is generally considered that the level of activity associated with the use of any individual property as a HMO is unlikely to be materially different to the use of a single household as a Class C3 dwellinghouse occupied by either a single family or other groups living as a single household. This issue has been considered in previous appeals where Inspectors have taken the view that properties used as HMOs within Class C4 would be occupied by similar numbers of occupiers to a C3 use. In dismissing an appeal at 82 Margate Road (APP/Z1775/A/12/2180908) the Inspector opined that "The level of activity generated by a large family would be comparable to that arising from the current proposal. Therefore, concerns over noise and disturbance would not justify rejection of the appeal. Other legislation is available to address concerns relating to anti-social behaviour".

It is accepted that the application seeks permission for use of the property for 7 or more individuals rather than six. The inadequate standard of accommodation served by a single combined living space of only 26.18sqm shared by 7 or more persons and very limited outside amenity space within the rear garden lends some weight to the potential concerns of noise and general disturbance from such an overintensive use of a modest terrace house.

## Parking/waste

The application site does not benefit from any off-street parking and none is proposed as part of this application (the constraints of the site are such that none can be provided). However, given the current lawful use of the property and the site's proximity to the city centre (within 2.4km) and 1.1km of the Pompey Centre and its associated provisions of shops, services and transport facilities, it is considered that an objection on car parking standards could not be sustained. In previous applications, it has been considered that as a property already benefits from a lawful use as a HMO it would not be reasonable to impose conditions requiring the provision of cycle storage facilities.

Although the floor plans do not indicate a dedicated area for the storage of waste, the property benefits from an enclosed rear garden that could be used to store refuse/recycling materials. Given the current lawful use of the property within Class C4, it is considered that it would not be reasonable to impose conditions requiring refuse storage facilities.

## Solent Special Protection Areas

The Conservation of Habitats and Species Regulations 2010 [as amended] and the Wildlife and Countryside Act 1981 place duties on the Council to ensure that the proposed development would not have a significant effect on the interest features for which Portsmouth Harbour is designated, or otherwise affect protected species. The Portsmouth Plan's Greener Portsmouth policy (PCS13) sets out how the Council will ensure that the European designated nature conservation sites along the Solent coast will continue to be protected.

The Solent Special Protection Areas Supplementary Planning Document (SPD) was adopted in April 2014. It has been identified that any development in the city which is residential in nature will result in a significant effect on the Special Protection Areas (SPAs) along the Solent coast. Paragraph 3.3 of the SPD states: 'Mitigation will generally not be sought from proposals for changes of use from dwellinghouses to Class C4 Houses in Multiple Occupation (HMOs) as there would not be a net increase in population. A change of use from a Class C4 HMO or a C3 dwellinghouse to a sui generis HMO is considered to represent an increase in population equivalent to one unit of C3 housing, thus resulting in a significant effect and necessitating a mitigation package to be provided'. The SPD sets out how development schemes can provide a mitigation package to remove this effect and enable the development to go forward in compliance with the Habitats Regulations.

Based on the methodology in the SPD, an appropriate scale of mitigation would be calculated as £181. As a result, it is considered that with mitigation and payment through an agreement under S111 of the Local Government Act there would not be a significant effect on the SPAs. The requirement for this payment to secure mitigation would be both directly related to the development and be fairly and reasonably related in scale to the development. The applicant has provided the correct level of mitigation.

## **RECOMMENDATION            Refuse**

### **The reasons for the decision are:**

- 1) The proposed use of the building as a 7-bedroom House in Multiple Occupation (sui generis) for 7 or more persons sharing would fail to support mixed and balanced communities by further imbalancing an area already imbalanced by a high concentration of HMO uses (C4 C3/C4 and sui generis HMO uses). The proposal is therefore contrary to Policy PCS20 of the Portsmouth Plan and the supporting Houses in Multiple Occupation Supplementary Planning Document (Nov 2017).
- 2) The proposed use of the building as a 7-bedroom House in Multiple Occupation (sui generis) for 7 or more persons sharing would, as a result of the cramped and restricted size and

layout of the communal living space facilities (lounge/kitchen/dining room), fail to provide the necessary shared communal space to provide an adequate standard of living accommodation for future occupiers and would represent an over intensive use of the site. The proposal is therefore contrary to policies PCS20 and PCS23 of the Portsmouth Plan and the supporting Houses in Multiple Occupation Supplementary Planning Document (Nov 2017).

#### PRO-ACTIVITY STATEMENT

Notwithstanding that the City Council seeks to work positively and pro-actively with the applicant through the application process in accordance with the National Planning Policy Framework it was not considered that the harm arising from the proposal could be overcome and the application has been refused for the reasons outlined above.