

59 LISS ROAD SOUTHSEA PO4 8AS

CHANGE OF USE FROM PURPOSES FALLING WITHIN CLASS C4 (HOUSE IN MULTIPLE OCCUPATION) OR CLASS C3 (DWELLING HOUSE) 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: 31st May 2017

LDD: 2nd August 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 mid-terrace dwellinghouse located on the north side of Liss Road. The property has a small 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) or Class C3 (dwelling house) to a 7-bedroom house in multiple occupation (sui generis).

Planning history

There is no relevant planning history for this site.

In support of this application, the applicant has provided the following evidence to prove the lawful use of the property as a HMO within Class C4 since 1st November 2011:

- o Tenancy agreements from 02/09/2011 to 30/06/2012 4 unrelated persons;
- o Details of four unrelated persons from 59 Liss Road depositing monies into the applicants account from the period of 09/2012 to 08/2013;
- o Email from council tax confirming that between August 2013 to September 2014 the property was registered as vacant;
- o Tenancy agreements from 01/09/2014 to 30/06/2015 4 unrelated persons;
- o Tenancy agreements from 07/09/2015 to 06/08/2016 4 unrelated persons; and,
- o Tenancy agreements from 01/09/2016 to 30/06/2017 4 unrelated persons.

On the balance of probabilities, it is considered that 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: PCS14 (A Healthy City), 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

Private Sector Housing

This property would require to be licenced under Part 2, Housing Act 2004 and from the information provided with the application, including the specific room sizes, the following comments are made with regard to inadequate common area, the size of the en-suite and the size of the ground floor shower room.

The shared lounge/kitchen is too small at 23.52m² and PSH would require it to be at least 27.5m² for between 6 - 10 people.

The ground floor shower room and bedroom 3 en-suite are undersized - they should be a minimum of 2.74m² and include a shower, wash hand basin and WC.

PSH would also like to ensure that the kitchen amenities provided within the property are at a minimum:

1. Two conventional cooker (irrespective as to whether a microwave oven is provided).
2. Two single bowl sinks and integral drainer.
3. Two under counter refrigerator and a separate freezer or two equivalent combined fridge/freezer.
4. Four 500mm base units and two 1000mm wall units with doors or equivalent.
5. 2500mm (L) x 500mm (D) of clear usable work surface. This in addition to any surface which is used by permanent electrical items.
6. Three twin socket, located at least 150 mm above the work surface.

Highways Engineer

Liss Road is a one -way residential road lined on both sides with terraced housing. There is parking arranged along both sides of the road which is subject to a 20mph limit.

No traffic assessment has been submitted with the application however considering the small scale of the proposal, it is unlikely to have a material impact upon the network and as such I am satisfied that a traffic assessment would not be required.

Portsmouth's residential parking standards state that Houses in Multiple Occupation (HMO), C4/ sui generis use with more than 4bedrooms should provide 2 spaces per dwelling. Whilst this area already experiences parking demand exceeding on-street capacity, the proposal would fall within the same category and as such would not need to provide any further spaces despite the increase in bedrooms (from 6 to 7).

Similarly, the cycle parking provision required would remain the same as current use.

As the application stands given the established policy position I would not wish to raise a Highways objection.

REPRESENTATIONS

Councillor Horton has requested this application be determined by planning committee if the officers' recommendation is not one of refusal.

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, would have a 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 86 properties within a 50 metre radius of the application site, 12 are considered to be in lawful use as a HMO inclusive of No.59 Liss Road. Therefore, as the granting of planning permission for this sui generis HMO use would retain the proportion of HMOs in the area at 13.95%, 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 with *en-suite (Second floor - in roof)	8.91sqm (*+2.23)	7.5sqm
Bedroom 2 with *en-suite (Second floor - in roof)	9.67sqm (*+2.88)	7.5sqm
Bedroom 3 (First floor)	14.3sqm	7.5sqm/11.5sqm
Bedroom 4 (First floor)	11.7sqm	7.5sqm/11.5sqm
Bedroom 5 (First floor)	9.41sqm	7.5sqm
Bedroom 6 (Ground floor)	17.09sqm	7.5sqm/11.5sqm
Bedroom 7 (Ground floor)	9.8sqm	7.5sqm
Shower room (Ground floor) + #separate WC (Ground floor) - if combined	2.04sqm (#1.44sqm) = 3.48sqm	3.74sqm
Bathroom (First floor)	3.15sqm	3.74sqm
Combined living space - 7 or more persons (Ground floor)	23.52sqm	27sqm

The City Council's Private Sector Housing Team has been consulted and comments that the communal living area, size of the en-suite and size of the ground floor shower room are considered too small for six to ten persons sharing. PSH also advise that this property would require to be licenced under Part 2, Housing Act 2004.

The licensing process would 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.

Whilst 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 LPA is not bound by the requirements of the Housing Act 2004. The planning system will generally seek to improve upon the bare minimum, to provide a good quality of living environment for future occupants, whether that is within a dwellinghouse (Class C3) or within shared accommodation (Class C4 & Sui Generis HMOs). However, there is alignment agreement, in this instance. The provision of a single combined living space at 23.52sqm 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, the ground floor shower/WC (combined) at 3.15sqm and first floor bathroom at 3.05sqm also both fall short of the minimum floorspace requirements of 3.74sqm.

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".

This 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 23.52sqm shared by 7 or more persons and 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 Pompey Centre and Fratton District Centre (within 750m) 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 of the communal living space facilities (lounge/kitchen/dining room), fail to provide the necessary shared communal space for an adequate standard of living accommodation for future occupiers and would represent an overintensive 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.