

30 HUDSON ROAD SOUTHSEA PO5 1HD

**CHANGE OF USE FROM PURPOSES FALLING WITHIN CLASS C4 (HOUSE IN MULTIPLE OCCUPATION) OR CLASS C3 (DWELLINGHOUSE) TO FORM 8-BEDROOM/8-PERSON HMO (SUI GENERIS)**

**Application Submitted By:**

Thorns Young Ltd  
FAO Mr Sam Appleton

**On behalf of:**

Mr Simon Pollick

**RDD:** 8th September 2017

**LDD:** 6th November 2017

**SUMMARY OF MAIN ISSUES**

The determining issues for this application relate to the suitability of the proposed HMO use within the existing community and whether the proposal complies with policy requirements in respect of standard of accommodation. Other considerations include its potential impact upon the living conditions of adjoining and neighbouring residents, SPA mitigation and parking.

The site

A two storey mid-terrace dwellinghouse occupies the site that is located on the south side of the road.

The proposal

The applicant seeks permission for a change of use from purposes falling within Class C4 (house in multiple occupation) or Class C3 (dwellinghouse) to form 8-bedroom/8-person HMO (sui generis). This represents an amendment to the original submission following a request from the applicants for the description of development to be changed from a nine-bedroom to an eight-bedroom HMO.

The proposed layout shows:

Ground floor - two bedrooms, shower/WC, separate WC, kitchen/dining room and a small 'extra communal area' (accessed through the kitchen);

First floor - three bedrooms and shower/WC; and

Second floor (in roofspace) - three bedrooms.

Planning history

In December 2013, a change of use from house in multiple occupation (Class C4) to purposes falling within dwellinghouse (Class C3) or HMO (Class C4) was permitted ref 13/01153/FUL.

Supporting information indicated a total of five bedrooms with internal layout plans showing (a) three bedrooms and a bathroom at first floor level and (b) two bedrooms toward the 'front' of the ground floor of the property with separate communal area, WC, kitchen and a conservatory (marked bike storage) toward the 'rear'.

There is no other relevant planning history.

**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**

The kitchen/dining size proposed is too small and does not meet the space requirement of 27.5m<sup>2</sup> for an open planned communal kitchen/lounge/dining.

### **Highways Engineer**

Standing advice: Where an application property already has 4 or more bedrooms, the expected parking demand of an HMO (sui generis) would be the same as the existing use as per SPD standards and as such would not be required to provide any further spaces despite an increase in the number of bedrooms.

The Portsmouth Parking SPD also gives the expected level of cycle parking that should be provided for residential developments. An existing property with 4-bedrooms has an expected demand for 4 cycle parking spaces; upon changing to a HMO (sui generis), the cycle parking provision required would remain the same as the current use and therefore additional cycle parking spaces are not required. It should however be ensured that the existing property already provides for 4 cycle parking spaces as per SPD standards.

Given the established policy position, the Highways Authority would see no grounds for objection.

## **REPRESENTATIONS**

None.

## **COMMENT**

The determining issues for this application relate to the suitability of the proposed HMO use within the existing community and whether the proposal complies with policy requirements in respect of standard of accommodation. Other considerations include its potential impact upon the living conditions of adjoining and neighbouring residents, SPA mitigation and parking/waste.

Principle of the use

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 this threshold of properties within a 50 metre radius of the application site considered to be in lawful use as a HMO is already exceeded and very high at 65%, inclusive of No.30 Hudson Road. Therefore, as the granting of planning permission for this sui generis HMO use would retain the proportion of HMOs in the area at this

figure well above the policy threshold 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 proposes the following accommodation:

Area:	Provided:	Required Standard: (HMO SPD-Nov 2017)
Bedroom 1 (First floor)	13.3sqm	7.5sqm/11.5sqm
Bedroom 2 (First floor)	8.05sqm	7.5sqm
Bedroom 3 (First floor)	9.05sqm	7.5sqm
Bedroom 4 (Second floor - in roof)	8.4sqm	7.5sqm
Bedroom 5 (Second floor - in roof)	7.5sqm	7.5sqm
Bedroom 6 (Second floor - in roof)	9.51sqm	7.5sqm
Bedroom 7 (Ground floor)	10.1sqm	7.5sqm
Bedroom 8 (Ground floor)	8.05sqm	7.5sqm
Shower room/WC (Ground floor)	3.48sqm	3.74sqm
Separate WC (Ground floor)	1.11sqm	
Shower room (First floor)	3.52sqm	3.74sqm
Dining/kitchen (Ground floor) - 7+ persons	20.43sqm	27sqm
Other communal (Ground floor) - 7+ persons	6.67sqm	

[\*Excludes floorspace below 1.5m floor-to-ceiling height]

The City Council Private Sector Housing team advise that a license would be required and express concerns that the kitchen/dining room is too small as shared space for 7 or more persons.

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, in this instance. The provision of a single kitchen/dining space at 20.43sqm 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, both the ground and first floor shower/WC facilities 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 kitchen/dining space of only 20.43sqm 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 Fratton District Centre (within 750m) and city centre (900m) 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 8-bedroom House in Multiple Occupation (sui generis) for 8 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 8-bedroom House in Multiple Occupation (sui generis) for 8 or more persons sharing would, as a result of the cramped and restricted size of the communal living space facilities (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).