

**8 PITCROFT ROAD PORTSMOUTH PO2 8BD****CHANGE OF USE FROM CLASS C4 (HOUSE IN MULTIPLE OCCUPATION) TO SUI GENERIS (HOUSE IN MULTIPLE OCCUPATION) FOR SEVEN UNRELATED PERSONS****Application Submitted By:**

New Era Agency  
FAO Mr Chris Broyd

**On behalf of:**

New Era Agency  
FAO Mr David Manchester

**RDD:** 8th August 2017

**LDD:** 4th October 2017

**SUMMARY OF MAIN ISSUES**

The determining issues for this application relate to the suitability of the proposed sui generis 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**

This application relates to a two storey mid-terrace dwellinghouse located on the southern side of Pitcroft Road. The property is set back from the highway by a narrow front courtyard and has a small enclosed garden to the rear.

**The proposal**

Planning permission is sought for a change of use from Class C4 (house in multiple occupation) to Sui Generis (house in multiple occupation) for seven unrelated persons.

Accompanying layout plans depict a single-storey rear extension to the ground floor kitchen and a wrap-around 'L'-shape enlargement of the rear roofslope, to create three bedrooms at roof level. The layout plans also show remodelling of the internal layouts of the remainder of the building, as follows:

Ground floor - provision of separate WC/shower room facilities and the introduction of one bedroom (toward the front of the property, formerly part of a combined lounge/dining room) and  
First floor - Enlargement of the 'rear' bedroom by removal and amalgamation of adjacent bathroom; also, a new shower/WC shown located between the other two bedrooms on this floor, reducing the size of the existing bedrooms.

The applicant describes the proposed sui generis HMO use for seven unrelated persons although one of the seven bedrooms (at 12sqm) offers potential occupation by two persons sharing.

The applicant's attention has been drawn to discrepancies in the submitted drawings that are, for instance, relied upon in the calculation of usable floorspace. The large rear dormer has not been constructed in accordance with the submitted drawings. In response, the agents confirms the applicant is happy with the accuracy of their supporting information; consequently this proposal is being progressed on the basis of the details as submitted, notwithstanding apparent discrepancies.

## Planning history

A change of use from dwellinghouse (Class C3) to purposes falling within Class C4 (house in multiple occupation) or Class C3 (dwellinghouse) was permitted under ref 17/00304/FUL in May 2017; supporting information on layout plans for the property depicted communal use of the entire ground floor (forming a through lounge and dining area with separate kitchen) and 3 no. bedrooms (with bathroom) at first floor level only.

The property has been the subject of enlargement by a single-storey rear extension and at roof level by a wrap-around dormer structure as well remodelling of the interior layout. Whilst the ground floor extension appears potentially capable of falling within "permitted development" (under Class A of the 2015 GPDO) the large dormer structure at roof level does not appear capable of falling with "permitted development" since, contrary to the conditions and limitations required as part of Class B.2(a) of the 2015 GPDO has not been built in matching materials. A partial inclusion of white UPVC cladding is in stark contrast to the existing tile roof material/finishes. Furthermore, it appears that the as-built the rear dormer fails to comply with part of Class B.2(b)(i)(aa) and (bb) of the 2015 GPDO for the eaves of the original roof to be maintained or reinstated and the edge of the enlargement closest to the eaves of the original roof to be less than 0.2 metres from the eaves, measured along the roofslope from the outside edge of the eaves. The rear dormer would thereby represent unauthorised development and at risk to enforcement action.

## 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

### Waste Management Service

A communal bin would be needed for the refuse collection, at the developer's expense.

### 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.

Summary

3 storeys/7 bedrooms - This property will require a licence under Part 2, Housing Act 2004.

The proposed kitchen/dining area is too small to accommodate 7 individuals. Where an open planned kitchen/dining room is proposed the minimum floor space required for 7 individuals sharing is 19.5sqm of which 11sqm must be for the exclusive use of cooking, food preparation and storage. The following amenities are required:

- o 2 x conventional cookers (a combination microwave may be used in lieu of a second cooker)
- o 1 x double bowl sink and integral drainer (a one and a half bowl sink is acceptable where a dishwasher is provided)
- o 2 x under counter fridge and a separate freezer or 2 equivalent combined fridge/freezer
- o 4 x 500mm base units and 2 x 1000mm wall units with doors or equivalent

- o 2500mm (l) x 500mm(d) worktops
- o 3 x twin sockets, located at least 150mm above the work surface.

The minimum floor space for a separate designated lounge area is 14sqm; the proposal states the lounge area is 13.37sqm and is therefore too small.

The shower room proposed on the ground floor is slightly too small. A shower room must be a minimum of 2.74sqm and a bathroom 3.74sqm, and include a WC, bath/shower, wash hand basin, heating and ventilation. The layout of the bath/shower room must be suitable to provide a usable 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. WC's must be a minimum of 1.17sqm and include a wash hand basin.

Bedroom 7 (2nd floor) - there is a concern over the space and height of this room. It has been observed the total room space is 7.2sqm with windows located in the roof suggesting an area of unusable space. The minimum size for a single occupancy bedroom (licencing) is 6.5sqm of usable space. Where the ceiling height is less than 1.5m the floor area underneath it is disregarded and not classed as usable space.

## **REPRESENTATIONS**

No representations have been received.

## **COMMENT**

The determining issues for this application relate to the suitability of the proposed sui generis 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

Planning permission is sought for the use of the property to a sui generis house in multiple occupation for seven unrelated persons.

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 45 properties within a 50 metre radius of the application site, only the application site is considered to be in lawful use as a HMO. Therefore, as the granting of planning permission for this sui generis HMO use would retain the proportion of HMOs in the area at 2.2%, it is not considered that the community is imbalanced by a concentration of HMO uses.

Standard of accommodation

Enlargement and significant remodelling of the building proposes provision of seven bedrooms, one at ground level, three at first and three at roof level.

In terms of internal living conditions, the property proposes the following accommodation:

Area:	Provided:	Required Standard: (HMO SPD-Nov 2017)
Bedroom 1 (Second floor - in roof)	*7.2sqm	7.5sqm
Bedroom 2 (Second floor - in roof)	7.4sqm	7.5sqm
Bedroom 3 (Second floor - in roof)	7.75sqm	7.5sqm
Bedroom 4 (First floor)	12sqm	7.5sqm/11.5sqm
Bedroom 5 (First floor)	7.5sqm	7.5sqm
Bedroom 6 (First floor)	7.5sqm	7.5sqm
Bedroom 7 (Ground floor)	10.7sqm	7.5sqm
Shower room (Ground floor) + #separate WC (Ground floor) - if combined	2.48sqm (#1.28sqm) = 3.76sqm	3.74sqm
Shower room (First floor)	3.97sqm	3.74sqm
Living room (Ground floor) - 7 or more persons	10.5sqm	14sqm
Kitchen (Ground floor) - 7 or more persons	14.5sqm	11sqm
Dining room - 7 or more persons	(not provided)	14sqm

[\*There is other floorspace below 1.5m floor-to-ceiling height]

The City Council Private Sector Housing Team (PSHT) advise that a licence would be required. PSHT consider the room marked kitchen to be too small to accommodate 7 individuals. For licencing, an open planned kitchen/dining room for 7 individuals sharing requires a minimum of 19.5sqm and where 11sqm must be for the exclusive use of cooking, food preparation and storage. PSHT also require a minimum of 14sqm for a lounge for 7 or more persons sharing.

The licencing 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 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, inter alia, by the minimum bedroom floor area set out within the Technical Housing Standards at 7.5sqm) 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). It could be argued that the provision of a good standard of living environment and sufficient space within bedrooms is more important within shared houses where the only private and secure facilities to store the occupiers' possessions or obtain privacy would be within their private bedrooms.

Where one combined communal living area (kitchen/dining/lounge facilities) is provided for 7 or more persons sharing a minimum floorspace of 27sqm is required. Where these are not provided in one combined living area then the (updated) HMO SPD has the following requirements as a minimum - kitchen at 11sqm, dining room at 14sqm and a lounge at 14sqm ie a total of 39sqm.

The bedrooms numbered 1 and 2 at roof level are small and at less than 7.5sqm of usable floorspace are considered to provide cramped and restricted living accommodation, contrary to the minimum standards required by the (updated) HMO SPD.

The previous planning permission under ref 17/00304/FUL in May 2017 for C4 HMO use (by 3 to six unrelated persons) provided the entire ground floor for communal use, to include communal lounge, dining and kitchen facilities. In light of the assessment of the accommodation above and significant diminution in the communal space provision and sub-standard size of bedrooms at second floor (roof) level, it is considered that the proposed use of the property by

seven or more persons would provide an inadequate standard of living accommodation for future occupiers.

#### Impact on residential amenity

The proposal involves the use of part of the ground floor as an additional bedroom (displacing communal lounge area previously forming a through living and dining room area) and creation of small bedrooms at roof level to create a 7 bed HMO. Whilst the accommodation of additional occupants would lead to a more intensive occupation of property that could result in the transmission of noise and disturbance to the adjoining occupiers, regard must be made to the lawful use of the property that allows occupation by up to six unrelated persons or by a family of an unrestricted size.

In considering an allowed appeal (October 2012) relating to this issue at 12 Beatrice Road (APP/Z1775/A/12/2177272) the Inspector stated that 'I do not consider that one additional resident would amount to an over-intensive use of the property. Having regard to the site's urban location and the density of housing in the area, such a small increase in occupancy would not have a significant impact on the intensity of activity in the surrounding area thereby affecting its character and appearance. Equally, an increase from six persons to seven would not result in a use demonstrably different from that already authorised. Any increase in activity, noise or disturbance is unlikely to be significant.'

A further allowed appeal (December 2012) relating to very similar issues at a property at 74 Telephone Road (APP/Z1775/A/12/2177629) stated that "the comings and goings, internal activity and resultant noise associated with one more person are not significant compared to the impact of the six that could reside in the property anyway". However, the Inspector did recognise that "if there were more than seven residents this would, of necessity, involve either the sharing of bedrooms or a significant reduction in the extent of the communal space to create additional bedrooms". The Inspector determined that "in these circumstances such a use would have an appreciably greater potential for resulting in undue noise and disturbance".

Having regard to comments received relating to over-intensification of the use and further imbalance the local community, the Planning Inspectorate following an appeal in September 2016 relating to 37 Margate Road (APP/Z1775/W/16/3159992) concluded that: "having regard to the site's urban location and the density of housing in the area, any increase in occupancy at the property derived from such a small increase in bedroom accommodation would not be materially discernible when considered in the context of the existing activity in the surrounding urban area. In reaching this conclusion I have carefully considered the representations from local residents, however, I am not persuaded that sufficient evidence has been submitted to substantiate that the proposed 1 additional bedroom, would result in material harm to their living conditions or unbalance the local community."

In light of the decisions above, it is considered that the occupation of the property by seven individuals rather than six would not result in any significant increase in noise and disturbance, and is unlikely to have a significant additional impact on the occupiers of adjoining or nearby properties.

Stepping away from the planning merits of the proposal, the use of the property as a Sui Generis HMO would also require a licence from the City Council's Private Sector Housing Team who would ensure adequate size standards, sanitary facilities and fire safety measures for future residents, and could provide assistance should the property not be managed appropriately.

#### Highways/Parking

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, the view of the planning Inspector detailed above and the sites proximity to local shops, services and transport facilities, it is considered that an objection on car parking standards could not be sustained. In the previous application permitting a C4

HMO use of No.8 ref 17/00304/FUL there is a planning condition requiring the provision and retention of secure/weatherproof cycle storage facilities.

## Waste

The Council's Waste Inspectors have indicated conditions should be imposed to secure suitable refuse storage for future occupiers. As conditions were not imposed on permission 17/003047/FUL, it is considered appropriate to impose this to prevent the unnecessary build-up of waste.

## 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 not provided the correct level of mitigation and it is therefore considered that a sui generis HMO would, if allowed, have a significant impact on the Solent SPA.

## Conclusion

As highlighted above, it is considered that the development would not provide an acceptable standard of living for seven or more occupiers and would have a significant impact on the Solent Special Protection Areas.

## **RECOMMENDATION            Refuse**

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

1) The proposed use of the building as sui generis House in Multiple Occupation for 7 or more persons sharing would, as a result of the cramped and restricted size of the communal amenity space (living room and kitchen areas, without separate dining room provision) and bedrooms at roof level, fail to provide the necessary 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 Core Planning Principles of the National Planning Policy Framework and Policies PCS20 and PCS23 of the Portsmouth Plan, including the supporting Houses in Multiple Occupation Supplementary Planning Document (Nov 2017).

2) Without appropriate mitigation the development would be likely to have a significant effect on the Portsmouth Harbour and Chichester and Langstone Harbours Special Protection Areas and so is contrary to Policy PCS13 of the Portsmouth Plan and the Conservation of Habitats and Species Regulations (as amended).

#### 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.