

# PLANNING COMMITTEE

## 29 OCTOBER 2014

5 PM EXECUTIVE MEETING ROOM,  
3<sup>RD</sup> FLOOR, GUILDHALL

### REPORT BY THE CITY DEVELOPMENT MANAGER ON PLANNING APPLICATIONS

#### ADVERTISING AND THE CONSIDERATION OF PLANNING APPLICATIONS

All applications have been included in the Weekly List of Applications, which is sent to City Councillors, Local Libraries, Citizen Advice Bureaux, Residents Associations, etc, and is available on request. All applications are subject to the City Councils neighbour notification and Deputation Schemes.

Applications, which need to be advertised under various statutory provisions, have also been advertised in the Public Notices Section of The News and site notices have been displayed. Each application has been considered against the provision of the Development Plan and due regard has been paid to their implications of crime and disorder. The individual report/schedule item highlights those matters that are considered relevant to the determination of the application

#### REPORTING OF CONSULTATIONS

The observations of Consultees (including Amenity Bodies) will be included in the City Development Manager's report if they have been received when the report is prepared. However, unless there are special circumstances their comments will only be reported VERBALLY if objections are raised to the proposals under consideration

#### APPLICATION DATES

The two dates shown at the top of each report schedule item are the applications registration date- 'RD' and the last date for determination (8 week date - 'LDD')

#### HUMAN RIGHTS ACT

The Human Rights Act 1998 requires that the Local Planning Authority to act consistently within the European Convention on Human Rights. Of particular relevant to the planning decisions are *Article 1 of the First Protocol-The right of the Enjoyment of Property*, and *Article 8-The Right for Respect for Home, Privacy and Family Life*. Whilst these rights are not unlimited, any interference with them must be sanctioned by law and go no further than necessary. In taking planning decisions, private interests must be weighed against the wider public interest and against any competing private interests Planning Officers have taken these considerations into account when making their recommendations and Members must equally have regard to Human Rights issues in determining planning applications and deciding whether to take enforcement action.

Web: <http://www.portsmouth.gov.uk>

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**02** 13/00287/FUL

**WARD: EASTNEY & CRANESWATER**

**4 ADAIR ROAD SOUTHSEA**

**CHANGE OF USE FROM HOUSE IN MULTIPLE OCCUPATION (CLASS C4) TO PURPOSES FALLING WITHIN CLASS C4 (HOUSE IN MULTIPLE OCCUPATION) OR CLASS C3 (DWELLINGHOUSE)**

**Application Submitted By:**

Mr Paul Thompson

**RDD:** 21st March 2013

**LDD:** 17th May 2013

**SUMMARY OF MAIN ISSUES**

The main issues to be considered in the determination of this application are whether the proposal is acceptable in principle, and whether it would have a detrimental impact on the living conditions of adjoining and nearby residents.

**The Site**

This application relates to a two-storey mid-terraced property located on the eastern side of Adair Road close to its junction with Worsley Street.

**Proposal**

This application seeks planning permission for the use of the property for purposes falling within Class C3 (dwellinghouse) or within Class C4 (House in Multiple Occupation). The interchange between Class C3 and Class C4 would normally be permitted development within the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). However, on 1st November 2011 an Article 4 Direction relating to HMOs came into force. As such, planning permission is now required in order to interchange between the uses of a Class C3 dwellinghouse and a Class C4 HMO where between three and six unrelated people share at least a kitchen and/or a bathroom. It is accepted through evidence submitted by the applicant and corroborated by Council records that the property is currently in lawful use as a Class C4 HMO.

**Planning History**

There is no planning history relating to the property. The property has been previously extended and altered without requiring planning permission as permitted development.

**POLICY CONTEXT**

The relevant policies within the Portsmouth Plan would include: PCS17 (Transport), PCS20 (Houses in Multiple Occupation (HMOs)), PCS23 (Design and Conservation).

The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (adopted October 2012) is also material to this application.

## **CONSULTATIONS**

None

## **REPRESENTATIONS**

An objection has been received from the occupier of a neighbouring property on the grounds that the application includes incorrect information; the applicant has previously extended and altered the property; HMO use commenced without permission; use of the property as a HMO would bring problems and alter the character of the area.

The request for the application to be considered by the committee has been received from Ward Councillor Terry Hall.

## **COMMENT**

The main issues to be considered in the determination of this application are whether the proposal is acceptable in principle, and whether it would have a detrimental impact on the living conditions of adjoining and nearby residents. Other considerations are whether the proposal complies with policy requirements in respect of car and cycle parking, and refuse and recyclable material storage.

Permission is sought for the use of the property for purposes falling within Class C3 (dwellinghouse) or Class C4 (house in multiple occupation) (HMO), to enable the applicant the flexibility to change freely between the two use classes. The lawful use of the property is as a HMO within Class C4.

Policy PCS20 (Houses in multiple occupation (HMOs): ensuring mixed and balanced communities) of the Portsmouth Plan states that applications for 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. This is supported by the guidance within the National Planning Policy Framework which seeks to 'deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities'.

However, notwithstanding the provisions of the policies detailed above, it is considered that by virtue of the property's current lawful use as a Class C4 HMO, the introduction of a level of flexibility that would enable an interchange between Class C3 and C4 uses would not result in an overall change to the balance of uses in the context of the surrounding area. It is therefore considered that the principle of the proposal is acceptable and capable of support.

Having regard to the current lawful use, it is also considered that the use of the property either as a HMO by up to six persons or the occupation of the property as a dwellinghouse (Class C3) would not significantly alter the living conditions of the occupiers of neighbouring properties or put significant increased pressure on local facilities.

The application site does not benefit from any off-street parking and none is proposed as part of this application. However as the lawful use is a HMO, it is considered that an objection the grounds of car parking could not be sustained.

As the property is already in lawful use as a HMO, it is not considered to be reasonable to impose conditions requiring the provision and retention of bicycle and refuse storage facilities.

**RECOMMENDATION**                      **Permission**

## PRO-ACTIVITY STATEMENT

In accordance with the National Planning Policy Framework the City Council has worked positively and pro-actively with the applicant through the application process, and with the submission of amendments an acceptable proposal has been achieved.

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**03** 14/00998/FUL

**WARD:CENTRAL SOUTHSEA**

**11 CLEVELAND ROAD SOUTHSEA**

**CHANGE OF USE FROM DWELLING HOUSE (CLASS C3) TO PURPOSES FALLING WITHIN CLASS C4 (HOUSE IN MULTIPLE OCCUPATION) OR CLASS C3 (DWELLING HOUSE)**

**Application Submitted By:**

Mr Barry Evers

**RDD:** 7th August 2014

**LDD:** 13th October 2014

**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 existing community and whether it would have a detrimental impact on the living conditions of adjoining and nearby residents. Other considerations are whether the proposal complies with policy requirements in respect of car and cycle parking, and the storage of refuse and recyclable materials.

The site and its surroundings

The application relates to a two-storey mid-terraced dwelling located to the southern side of Cleveland Road, opposite its junction with Eton Road. The property fronts directly onto the back edge of the footway and comprises two reception rooms, a kitchen and a bathroom at ground floor level with three bedrooms at first floor level. The surrounding area is characterised by densely populated residential terraces with a small local centre located to the east on Fawcett Road.

The proposal

Permission is sought for the use of the property for purposes falling within Class C3 (dwellinghouse) or within Class C4 (House in Multiple Occupation). The interchange between Class C3 and Class C4 would normally be permitted development within the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). However, on 1st November 2011 an Article 4 Direction relating to HMOs came into force. As such, planning permission is now required in order to interchange between the uses of a Class C3 dwellinghouse and a Class C4 HMO where between three and six unrelated people share at least a kitchen and/or a bathroom. The lawful use of the property is as a dwellinghouse within Class C3.

Planning history

There is no relevant planning history for this site.

## **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 (HMOs)) and PCS23 (Design and Conservation). The Houses in Multiple Occupation Supplementary Planning Document (HMO SPD) would also be material to this application.

## **CONSULTATIONS**

**None.**

## **REPRESENTATIONS**

One letter of representation has been received on behalf of the Portsmouth and District Private Landlords Association in support of the application. Their comments can be summarised as follows: (a) The application site is surrounded by HMOs; (b) The property is more suited to use as a HMO than a Class C3 dwellinghouse; (c) Overturned appeal decision at No.34 Playfair Road supports the proposal; (d) Policy PCS23 and the supporting HMO SPD is creating situations where C3 dwellinghouses are becoming "trapped" in areas where there are a significant number of HMOs; (e) There is a significant demand for HMO properties within the city; and (f) Impact on property values.

## **COMMENT**

The main issues to be considered in the determination of this application are whether the proposal is acceptable in principle and whether it would have a detrimental impact on the living conditions of adjoining and nearby residents. Other considerations are whether the proposal complies with policy requirements in respect of car and cycle parking, and refuse and recyclable materials storage.

Permission is sought for the use of the property for purposes falling within Class C3 (dwellinghouse) or Class C4 (house in multiple occupation) (HMO), to enable the applicant the flexibility to change freely between the two use classes. The property currently has a lawful use as a dwellinghouse (Class C3).

### **Principle of HMO Use**

Policy PCS20 of the Portsmouth Plan states that applications for 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 Houses in Multiple Occupation (HMOs) SPD sets out how Policy PCS20 will be implemented and details how the City Council will apply this policy to all planning applications for HMO use.

In identifying the area surrounding the application property, 30 of the 75 properties within a 50 metre radius were identified as being in use as HMOs. The number of HMOs as a percentage is therefore 40%, rising to 41.3% if permission was granted, exceeding the 10% threshold set out within the HMO SPD. It is therefore considered that the community is already imbalanced by a concentration of HMO uses and this application would result in a further imbalance contrary to the aims and objectives of Policy PCS20 of the Portsmouth Plan and the HMO SPD.

Comments received on behalf of the Portsmouth and District Private Landlords Association refer to a recent appeal decision at No.34 Playfair Road (ref.APP/Z1775/A/14/2220226 - 22nd September 2014). The Inspector overturned the decision of the Local Planning Authority to refuse planning permission for the change of use of a Class C3 dwellinghouse to purposes falling within Class C3 or Class C4 in an area that was already considered to be imbalanced by HMO uses. In reaching his conclusion the Inspector opined that:

"In the case of the appeal application, the Council says that 26 of 66 properties are already HMOs (39.4%) and if permission is granted in this case the figure of 27 would equate to 40.9%. For the appellant it is argued that the Council's data is incorrect and the existing figure should be 46.97%. More importantly for the appellant's case, No. 34 is a Class C3 use completely surrounded by Class 4 HMOs, with four on the opposite side of the street, two on either side and one immediately to the rear of the garden, in Pains Road. As such it is an example of the 'trapped property' syndrome, whereby Class C3 dwellings cannot be changed into an HMO because of the policy, but also cannot be sold at the market value of other similar C3 dwellings nearby because their value is depressed by a lack of demand as a result of the surrounding HMOs. Clearly it is not for me to endorse the appellant's criticism of the Council's procedures and adopted policies as part of this appeal. However evidence has been supplied that at the time the appeal was lodged the appeal property had been marketed for the best part of a year at a price comparable with similar dwellings nearby but not surrounded by HMOs. Reference has also been made to the 'exceptional circumstances' practice exercised in other Councils, including nearby Southampton, whereby a remedy is applied in cases where the quota system is causing inequity in the housing market through the 'trapping' of Class C3 dwellings in areas of concentrated HMOs. In my view therefore, the circumstances in this case are a material consideration which outweighs the conflict with Policy PCS20 and the SPD. I also note that the Council has accepted that the change of use in this case would not adversely affect the living conditions of nearby occupiers or be in conflict with its parking policy. My conclusion on the main issue is that the proposed change of use in this case would not prejudice the Council's objective of 'a mixed and balanced community' in the locality".

The Council, as Local Planning Authority, is required to determine applications in accordance with the development plan (the policies in the Portsmouth Plan, including PCS20) unless material considerations indicate otherwise. The HMO SPD is a material consideration that should be given considerable weight in determining the application, which is for a form of development to which the SPD specifically relates. The recent decisions of Inspectors are also material considerations that the Council should have regard to in determining the application, where they relate to a similar form of development.

However, whilst relevant as a material consideration, it is for the Council to determine what weight should be afforded to an Inspector's decision, particularly when set against the policies of the Portsmouth Plan, and having regard to other material considerations also referred to in this report. It is the view of the Local Planning Authority that the Inspector's decision is substantially contrary to the established policy of the Council, and undermines the objectives of the Portsmouth Plan. In having regard to practice in the area of another Local Planning Authority (Southampton), the Inspector has gone beyond his remit in determining the Playfair Road application, which is required by law to be determined in the context of the development plan for Portsmouth and only having regard to material considerations that specifically related to the Playfair Road site.

An equivalent error appears to have occurred where the Inspector makes reference to "trapped property" syndrome. The Inspector appears to have assumed that "a price comparable with similar dwellings nearby but not surrounded by HMOs" was the appropriate comparison to make. The Inspector makes no reference to having any valuation evidence from a professional expert to make a comparison of particulars of the property including the accommodation and facilities it afforded, and the condition it was in in comparison with "similar properties", and whether the general market for such properties in the relevant period had been taken into account. In the absence of specific valuation and marketing evidence from a specialist professional the Inspector lacked relevant evidence as to whether or not marketing might have been more effective if an alternative use was permitted i.e. there was no evidence before the Inspector to which weight should have been afforded that the Playfair Road property was "trapped" as suggested. However, even had there been such relevant evidence, the practice adopted by Southampton in having regard to that issue and allowing exception to their policy (if such is the practice adopted by Southampton) should not have been considered relevant in the

case of Playfair Road: the policy in the Portsmouth Plan does not include reference to exception being made in such circumstances and so the Inspector should not have considered it in determining an appeal for a Portsmouth site.

It is the view of the Council that the Inspector's decision in respect of Playfair Road is therefore not a decision that should be given any weight. In having regard to matters that were not relevant to the Playfair Road site, the Inspector has undermined the validity of his decision. The decision is inconsistent in its approach to the application of the policies of the Plan, contradicts numerous previous appeal decisions for comparable proposals, and undermines the aims and objectives of policy PCS23 and the supporting HMO SPD. Whilst the City Council will not challenge this decision, it is considered that it should be given no weight in the determination of the current application. However, significant weight must be given to numerous appeal decisions for properties in close proximity of the application site where Inspectors have supported policy PCS20 of the Portsmouth Plan and the City Council's approach to maintaining mixed and balanced communities.

One such example would be the appeal at 82 Margate Road (ref.APP/Z1775/A/12/2180908 - 7th January 2013) where the concentration of HMOs was comparable to that of the current application. In dismissing the appeal the Inspector stated: "There remain a significant number of properties in C3 use within the relevant area despite the locality already being imbalanced. It cannot therefore be reasonably argued there are so few remaining family houses that the retention of that at the appeal site serves little purpose.... It has not been shown that the property has been vacant for any meaningful period and would not be brought back into use, or that it cannot be sold or let for C3 purposes. The proposal would therefore still not comply with this approach, which in any case is that taken by Southampton City Council and does not apply in this instance anyway. The argument that it would just be one additional HMO is not a sound reason for allowing the appeal as such an argument could be repeated until all the C3 uses had been lost.... The Appellant indicates that HMO properties fetch a premium in the city and are therefore unlikely to revert to C3 use. However, this emphasises the importance of applying the relevant policies to support mixed and balanced communities and not adding to existing imbalances, as would occur in this instance".

Having particular regard to Margate Road decision, it is noted that whilst the area surrounding the application site is already imbalanced, 10 out of 18 properties on the southern side of the road and 9 out of 14 properties on the northern side of the road remain in use as Class C3 dwellinghouses. Therefore, contrary to the views of the Portsmouth and District Private Landlords Association, it could be argued that the property is more suited to a use within Class C3 and is not an example of a "trapped" property where there are only one or two properties remaining in Class C3 use within the surrounding area.

In response to the view that there is an insufficient supply of HMOs within the city, it should be noted that the purpose of Policy PCS20 and the HMO SPD is not to restrict the number of HMOs but to ensure the future balance of established communities. The contribution HMOs make to meeting the city's accommodation needs is recognised within the policy and the 10% threshold is set at a level at which future demand can be met. Impact on property value is not a material planning consideration.

#### Impact on Amenity

In amenity terms, it is considered that the level of activity that could be associated with the use of any individual property either as a dwellinghouse (Class C3) which involves occupation by a single family, or other groups living as a single household, would be unlikely to be significantly different than the occupation of the property by between 3 and 6 unrelated persons as a house in multiple occupation. This issue has also 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 the Inspector opined that "The level of activity generated by a large family would be comparable to that arising from the current proposal.

The HMO SPD is however, supported by an assessment of the need for, and supply of, shared housing in Portsmouth and of the impacts of high concentrations of HMOs on local communities. Paragraphs 9.1-9.10 discuss the negative impacts of HMO concentrations on local communities and points to the cumulative environmental effects of HMO concentrations.

#### Car 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 that the level of occupation associated with a HMO is not considered to be significantly greater than the occupation of the property as a Class C3 dwellinghouse, and given the site's location within a short walk of local transport links and local shops and services, it is considered that an objection on car parking standards could not be sustained. It is also noted that a Residents' Parking Scheme operates within this area which would limit the number of vehicles that could be associated with this particular property.

#### Other Matters

The submitted drawings do not show the provision of bicycle storage facilities for future occupiers, although the applicant has indicated that he would be willing to provide such facilities. Whilst the provision of bicycle storage facilities could be sought through a suitably worded planning condition, it would not overcome the concerns highlighted above. The storage for refuse and recyclable materials would remain unchanged.

## **RECOMMENDATION            Refuse**

### **The reason for the recommendation is:**

The proposed change of use from dwellinghouse (Class C3) to purposes falling within Class C3 (dwellinghouse) or Class C4 (house in multiple occupation) would fail to support a mixed and balanced community in an area imbalanced by the level of similar such uses. The proposal is therefore contrary to Policy PCS20 of the Portsmouth Plan and the Houses in Multiple Occupation Supplementary Planning Document.

#### 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.

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**04** 14/01105/FUL

**WARD:NELSON**

**276 TWYFORD AVENUE PORTSMOUTH**

**CHANGE OF USE FROM DWELLING HOUSE (CLASS C3) TO PURPOSES FALLING WITHIN CLASS C4 (HOUSE IN MULTIPLE OCCUPATION) OR CLASS C3 (DWELLING HOUSE)**

**Application Submitted By:**

Mr Andrew Brown

**RDD:** 26th August 2014  
**LDD:** 22nd October 2014

This application has been called to Committee at the request of Nelson Ward Member Councillor Leo Madden.

## **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 existing community and whether it would have a detrimental impact on the living conditions of adjoining and nearby residents. Other considerations are whether the proposal complies with policy requirements in respect of car and cycle parking, and the storage of refuse and recyclable materials.

### **The Site and its Surroundings**

This application relates to a two-storey end of terrace dwelling (with addition accommodation within the roof space) located at the junction of Twyford Avenue and Stamshaw Road. The property fronts directly onto the back edge of the footway and comprises two reception rooms and a kitchen at ground floor level, three bedrooms and a bathroom at first floor level and three further bedrooms and a shower room within the roof space. A small rear garden benefits from an access onto Stamshaw Road. The surrounding area is predominantly residential in character with a mix of terraced houses and small blocks of flats.

### **Proposal**

Permission is sought for the use of the property for purposes falling within Class C3 (dwellinghouse) or within Class C4 (House in Multiple Occupation). The interchange between Class C3 and Class C4 would normally be permitted development within the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). However, on 1st November 2011 an Article 4 Direction relating to HMOs came into force. As such, planning permission is now required in order to interchange between the uses of a Class C3 dwellinghouse and a Class C4 HMO where between three and six unrelated people share at least a kitchen and/or a bathroom. The lawful use of the property is as a dwellinghouse within Class C3.

### **Planning History**

Conditional permission was granted 1999 (ref.A\*35129/AB) for the construction of dormers to the front (west) and rear (east) roof slopes.

## **POLICY CONTEXT**

In addition to the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS17 (Transport), PCS20 (Houses in Multiple Occupation (HMOs)) and PCS23 (Design and Conservation). The Houses in Multiple Occupation (HMOs) Supplementary Planning Document would also be material to this application.

## **CONSULTATIONS**

None

## **REPRESENTATIONS**

Three letters of representation have been received from local residents and Nelson Ward Member Councillor Leo Madden in objection to the proposal. In addition, a petition containing

the signatures of 30 named individuals (some of which had also submitted individual letters of representation) from 20 properties in Twyford Avenue and Stamshaw Road has been provided which claims to be in objection to the proposal. The objections can be summarised as follows: (a) Too many "multi-occupancy" buildings in the area (b) Parking; (c) Increase in noise and disturbance; (d) Increase in anti-social behaviour; (e) Increase in waste management issues; and (f) The property is not suitable for use as a HMO (too small).

## **COMMENT**

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 existing community and whether it would have a detrimental impact on the living conditions of adjoining and nearby residents. Other considerations are whether the proposal complies with policy requirements in respect of car and cycle parking, and the storage of refuse and recyclable materials.

Permission is sought for the use of the property for purposes falling within Class C3 (dwellinghouse) or Class C4 (house in multiple occupation) (HMO), to enable the applicant the flexibility to change freely between the two use classes. The property currently has a lawful use as a dwellinghouse (Class C3).

### Principle of HMO 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 Supplementary Planning Document (HMO SPD) 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.

In identifying the area surrounding the application property, it has been established that one of the 107 residential properties within a 50 metre radius was in use as a HMO. As the granting of planning permission would increase the proportion of HMOs to less than 2% (1.87), it is considered that the community is not already imbalanced by a concentration of HMO uses and that this application would not result in an imbalance of such uses.

It has been suggested within representations that there are already too many "multi-occupancy" buildings within the surrounding area and reference is made to blocks of flats. It should however, be noted that whilst a block of flats will contain a number of individual self-contained units, the building as a whole does not fit into the definition of a HMO and each self-contained flat will be counted as an individual property in use as a Class C3 Dwellinghouse. No other HMOs have been highlighted within the representations.

It is also suggested that the property is too small to be used as a Class C4 HMO. However, most properties within the city that are in use as Class C4 HMOs are of a comparable size to the application dwelling.

### Impact on Amenity

The representation refers to the potential increase in noise and disturbance resulting from the use of the property as a HMO. It is however, generally considered that the level of activity associated with the use of any individual property as a Class C4 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 therefore considered that the proposed use of this property within Class C4 would not be demonstrably different from uses within Class C3 that make up the prevailing residential character of the surrounding area.

The HMO SPD is supported by an assessment of the need for, and supply of, shared housing in Portsmouth and of the impacts of high concentrations of HMOs on local communities.

Paragraphs 9.1-9.10 discuss the negative impacts of HMO concentrations on local communities and points to the cumulative environmental effects of HMO concentrations. However, given that there is only one other HMO within the surrounding area, it is considered that the impact of one further HMO would not be significantly harmful at this particular point in time.

#### Car 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 that the level of occupation associated with a HMO is not considered to be significantly greater than the occupation of the property as a Class C3 dwellinghouse, it is considered that an objection on parking grounds could not be sustained.

#### Other Matters

The submitted drawings indicate the provision of cycle storage facilities within a shed in the rear garden and internally within the hallway beneath the stairs. These facilities are considered to be adequate to accommodate the number of bicycles likely to be associated with the property when in Class C4 use. The retention of these facilities can be controlled by a suitably worded planning condition. The property also benefits from a rear garden which could provide additional informal bicycle storage space if required. The storage of refuse and recyclable materials would remain unchanged.

## **RECOMMENDATION                      Conditional Permission**

### **Conditions**

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Location Plan and Amended Floorplans received on 25.09.2014.
- 3) The bicycle storage facilities shown on the approved drawings shall be provided prior to the first occupation of the property as a Class C4 House in Multiple Occupation, and shall thereafter be retained for the continued ancillary storage use by the occupants of the property.

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

- 1) To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) To ensure that adequate provision is made for cyclists using the premises in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.

## 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, in this instance the proposal was considered acceptable and did not therefore require any further engagement with the applicant.

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**05** 14/01132/FUL

**WARD:ST JUDE**

**1 PELHAM ROAD SOUTHSEA**

**CHANGE OF USE FROM HOSTEL (SUI GENERIS) TO PURPOSES FALLING WITHIN CLASS C3 (DWELLINGHOUSE) OR CLASS C4 (HOUSE IN MULTIPLE OCCUPATION)**

**Application Submitted By:**

Knightsbridge Investment Property Ltd

**RDD:** 2nd September 2014

**LDD:** 6th November 2014

### **SUMMARY OF MAIN ISSUES**

The main issues to be considered in the determination of this application are: whether the principle of the proposed uses are acceptable in the context of maintaining a balance of residential uses; whether the proposal would preserve or enhance the character and appearance of the Conservation Area and whether the proposed change of use would have any significant effect on the amenities of the occupiers of neighbouring properties. Other issues to consider are whether the proposal meets policy requirements in respect of car parking and SPA mitigation.

#### The Site

The application site comprises the curtilage of number 1 Pelham Road, a two-storey end of terrace property (with accommodation in the roofspace). The lawful use of the property is as a hostel. The site is located within the Castle Road Conservation Area.

#### The Proposal

This application seeks planning permission for a change of use from hostel to purposes falling within Class C3 (dwellinghouse) or Class C4 (house in multiple occupation).

#### Relevant Planning History

Planning permission was granted in March 1977 (under reference A\*30148) for a change of use to hostel.

### **POLICY CONTEXT**

The relevant policies within the Portsmouth Plan would include:

PCS17 (Transport), PCS20 (Houses in Multiple Occupation (HMOs)), PCS23 (Design and Conservation), PCS13 (A Greener Portsmouth).

The NPPF and relevant guidance in the adopted 'Houses in Multiple Occupation' and Solent Special Protection Areas Supplementary Planning Documents are also material to the determination of this application.

## **CONSULTATIONS**

### **Private Sector Housing**

No response received.

## **REPRESENTATIONS**

An objection and deputation request has been received from the occupier of a neighbouring property of the grounds that there are a number of other HMOs in the area and that the proposal would exacerbate existing parking problems. The objector requests that if the application is permitted additional sound proofing be added between properties.

## **COMMENT**

The main issues to be considered in the determination of this application are: whether the principle of the proposed uses are acceptable in the context of maintaining a balance of residential uses; whether the proposal would preserve or enhance the character and appearance of the Conservation Area and whether the proposed change of use would have any significant effect on the amenities of the occupiers of neighbouring properties. Other issues to consider are whether the proposal meets policy requirements in respect of car parking and SPA mitigation.

### Principle of Proposed Uses

Having regard to the prevailing character of the area and the site's location within a residential area, it is considered that the proposed change of use to a dwellinghouse is acceptable in principle.

Policy PCS20 of the Portsmouth Plan states that applications for 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 Houses in Multiple Occupation SPD sets out how Policy PCS20 will be implemented and details how the City Council will apply this policy to all planning applications for HMO use.

In identifying the area surrounding the application property, at least nine of the 86 residential properties within a 50 metre radius are known to be in HMO use. The proportion of HMOs as a percentage is therefore 10.5%, rising to 11.6% if permission was granted and would therefore further exceed the breach of the 10% threshold in the SPD.

The lawful use of the property as a hostel, in terms of the nature and activity associated with such a use (i.e. short term transient occupation), is considered unlikely to be significantly different from that of a small HMO. Having regard to the aims and objectives of Policy PCS20 in respect of supporting mixed and balanced communities and the lawful use of the property as a hostel, it is considered that in this instance a refusal on the grounds of the proposed HMO use further imbalancing the mix of uses in the community could be not be justified.

### Conservation Area

Section 72 of the Listed Buildings and Conservation Areas Act 1990 (as amended) requires that LPAs pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area. The character of this part of the Castle Road Conservation Area is made up of two-storey terraced and semi-detached properties some of which have been converted to flats and others occupied as HMOs. Having regard to the prevailing character of

the area, the mix of existing uses and the lawful use of the property as a hostel, it is considered that neither of the proposed uses would give rise to any material harm to the Conservation Area and as such would preserve its character and appearance.

#### Impact on Amenity

It is considered that the level of activity that could be associated with the use of the property as either a dwelling or HMO would not be significantly different than could be associated with the use of the property as a hostel. It is therefore considered that the proposed uses would not be likely to adversely affect the living conditions of nearby residents.

#### 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 that the site is close to the Albert Road and Elm Grove District Centre, it is considered that an objection on car parking standards could not be sustained.

#### SPA Mitigation

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. 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 £172. As a result, it is considered that, subject to the inclusion of an appropriate level of mitigation within a unilateral undertaking or payment through an agreement under S111 of the Local Government Act there would not be a significant effect on the SPAs. The requirement for a payment to secure mitigation would be both directly related to the development and be fairly and reasonably related in scale to the development.

**RECOMMENDATION:** that delegated authority be given to the City Development Manager to grant Planning Permission subject to the securing of an appropriate contribution towards mitigation measures in connection with the Solent Special Protection Areas SPD

#### PRO-ACTIVITY STATEMENT

In accordance with the National Planning Policy Framework the City Council has worked positively and pro-actively with the applicant through the pre-application process to achieve an acceptable proposal without the need for further engagement.

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**NORTH STREET PLAY AREA NORTH STREET PORTSMOUTH****CONSTRUCTION OF THREE STOREY BUILDING TO FORM 5 FLATS AND ASSOCIATED WORKS****Application Submitted By:**

Head of Asset Management Services  
Portsmouth City Council

**On behalf of:**

Head of Housing Services  
Portsmouth City Council

**RDD:** 15th September 2014

**LDD:** 11th November 2014

**SUMMARY OF MAIN ISSUES**

The main determining issues include the principle of the residential development of the site, the appropriateness of the design solution, amenity impact on nearby residents, transport and parking implications and other policy requirements.

**The Site**

The application site comprises a 0.12 hectare parcel of land located between King William and North Streets in Portsea. The site which was formerly the site of a playground is currently used as informal open space. The site is not designated as protected open space.

**The Proposal**

This City Council scheme seeks planning permission for the construction of a three-storey building comprising five 5 flats and associated works including the provision of parking, landscaping. The proposal would comprise a three bedroom disabled persons unit to the ground floor and 4 four one-bedroom flats to the first and second floors.

**Planning History**

None of the planning history of the site is considered relevant to the determination of this application.

**POLICY CONTEXT**

The relevant policies within the Portsmouth Plan would include:

PCS4 (Portsmouth city centre), PCS10 (Housing Delivery), PCS13 (A Greener Portsmouth), PCS14 (A Healthy City), PCS15 (Sustainable design and construction), PCS16 (Infrastructure and community benefit), PCS17 (Transport), PCS19 (Housing mix, size and affordable homes), PCS21 (Housing Density), PCS23 (Design and Conservation).

The NPPF and the Parking Standards, Sustainable Design & Construction, Housing Standards and Solent Special Protection Areas SPDs are all relevant to the proposed development.



## **CONSULTATIONS**

### **Contaminated Land Team**

None received

### **Highways Engineer**

No objection subject to submission of amended refuse storage details

### **Environmental Health**

No concerns regarding traffic noise impacting upon the proposal or any associated additional traffic movements

## **REPRESENTATIONS**

One objection has been received from a local resident on the grounds that the loss of open space would detract from the area

## **COMMENT**

The main determining issues include the principle of the residential development of the site, the appropriateness of the design solution, amenity impact on nearby residents, transport and parking implications and other policy requirements.

Principle of mixed use development

The site is unallocated in the Portsmouth Plan or emerging Site Allocations SPD. The site has historically been used as a playground, however the equipment was removed some years ago with the site being used as an informal play area. The site is City Council owned and has been identified as an underused asset that could be used to provide additional Council housing.

The site is located within the Portsea locality of the City Centre. Policy PCS4 of the Portsmouth identifies that "the area's residential role will be preserved, as it is important that the main retail destinations of the city centre [Commercial Road and Gunwharf] are maintained as separate, yet linked, destinations".

It is considered that having regard to the location of the site, its redevelopment for residential purposes would represent an efficient use of site and make a contribution towards meeting the housing needs of the city. The principle of development is therefore considered acceptable.

Design

Neighbouring buildings are a mix of three-storey terraced townhouse and three storey blocks of flats. Having regard to the site layout and three-storey scale of the proposal, it would relate well to the existing pattern of development.

The proposed building has been designed to give the appearance of a terrace of three townhouses, with the materials and detailing taking its inspiration from the mid-1980's development in Rawlinson Terrace to the north-east. The proposed building is considered to be a well-designed solution which would make a positive contribution to the quality of the built environment in this location.

Amenity impact

The nearest existing residential occupiers which would be most affected by the proposal are located to the east (in Ward House) and west (in York Place) of the site. The proposed flats would be located over 20 metres from the east facing windows of flats in Ward House and approximately 18 metres from the west facing windows of dwellings in York Place. Whilst the proposal may give rise to some mutual overlooking, the separation distances are considered

acceptable such that there would be no significant adverse impact on the outlook from neighbouring properties.

## Transport and parking

Vehicular access would be from North Street giving access to three off-street spaces, two of which would be designated for disabled persons. The site is in an area of high accessibility to public transport where the Parking Standards SPD recognises that a lower standard of parking can be justified. The proposal includes provision for secure and weatherproof cycle stores located in a communal amenity area to the rear of the building. The Highways Authority raise no objection to the proposal subject to amendments to the proposed refuse storage facilities.

To accord with policy PCS15 the proposed development has been designed to achieve an overall Code for Sustainable Homes level 4, with level 5 for energy, as set out in a CfHS pre-assessment.

The site includes two larger and high quality London Plane Trees, together with a number of smaller, lesser quality trees. The scheme allows for the retention and protection of the of the two large London Plane trees, but would result in the loss of other lesser quality trees which would be replaced by new planting. The scheme also allows for the retention of the flower beds that from part of the Portsea Community Garden which bound the former playground.

The proposal would lead to a net increase in population, which in all likelihood would lead to a significant effect, as described in Regulation 61 of the Habitats Regulations, on the Portsmouth Harbour and the Chichester and Langstone Harbours Special Protection Areas (the SPAs). The Solent Special Protection Areas SPD sets out how the significant effect which this scheme would otherwise cause, could be overcome. Based on the methodology in the SPD, an appropriate scale of mitigation could be calculated as  $(5 \times £172) = £860$ . The applicant has indicated that they are willing to provide SPA mitigation in this way. Consequently it is considered that, subject to securing appropriate mitigation in accordance with the SPD, there would not be a significant effect on the SPAs.

**RECOMMENDATION: that delegated authority be given to the City Development Manager to grant Conditional Planning Permission subject to the securing of an appropriate contribution towards mitigation measures in connection with the Solent Special Protection Areas SPD**

## Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: 617958/1100/P2; 617958/1201/P4; 617958/1211/P5; and 617958/1310/P5.
- 3) No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the local planning authority:-
  - (a) a desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS10175:2011;and, unless otherwise agreed in writing by the Local Planning Authority,
  - (b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as being appropriate by the desk study in accordance with BS10175:2011- Investigation of Potentially Contaminated Sites - Code of Practice;and, unless otherwise agreed in writing by the Local Planning Authority,

(c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works.

4) The development hereby permitted shall not be occupied/brought into use until there has been submitted to and approved in writing by the Local Planning Authority verification by the competent person approved under the provisions of condition 3(c) that any remediation scheme required and approved under the provisions of condition 3(c) has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Local Planning Authority in advance of implementation). Unless otherwise agreed in writing by the Local Planning Authority such verification shall comprise;

(a) as built drawings of the implemented scheme;

(b) photographs of the remediation works in progress;

(c) Certificates demonstrating that imported and/or material left in situ is free of contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under condition 3(c).

5) Before any part of the development is occupied, written documentary evidence shall be submitted to, and approved in writing by, the local planning authority proving that the development has achieved a minimum of level 4 of the Code for Sustainable Homes, including 9 credits from issue Ene 1, 2 credits from issue Ene 7, one credit from Hea 3 and two credits from issue Ene 8, which will be in the form of a post-construction assessment which has been prepared by a licensed Code for Sustainable Homes assessor and the certificate which has been issued by a Code Service Provider, unless otherwise agreed in writing by the local planning authority.

6) The development shall be carried out in accordance with the approved schedule of external materials, as shown on elevation drawings 617958/1310/P5.

7) The approved hard/soft landscaping shown on drawing no 617958/1210/P4 shall be carried out in the first planting season following the occupation of the building. Any trees which, within a period of 5 years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of same size and species. The approved hard surface treatments in a combination of concrete slab paving and block paving shall be carried out before first occupation of the building.

8) The car parking spaces shown on the approved plan shall be surfaced, marked out made available for use before first occupation of the development, and shall thereafter be retained for car parking purposes.

9) Prior to the first occupation of the flats hereby permitted, secure cycle storage facilities shall be provided in accordance with a detailed scheme that shall previously have been submitted to and approved in writing by the Local Planning Authority. The cycle storage facilities shall thereafter be retained.

10) Prior to the first occupation of the flats hereby permitted, facilities for the storage of refuse and recyclable materials shall be provided in accordance with a detailed scheme that shall previously have been submitted to and approved in writing by the Local Planning Authority. The storage facilities shall thereafter be retained.

**The reasons for the conditions are:**

1) To comply with Section 91 of the Town and Country Planning Act 1990.

2) To ensure the development is implemented in accordance with the permission granted.

- 3) In order to ensure that the site is free from prescribed contaminants in accordance with saved policy DC21 of the Portsmouth City Local Plan 2001-2011.
- 4) In order to ensure that the site is free from prescribed contaminants in accordance with saved policy DC21 of the Portsmouth City Local Plan 2001-2011.
- 5) To ensure the development has minimised its overall demand for resources and to demonstrate compliance with policy PCS15 of the Portsmouth Plan.
- 6) In the interests of the visual amenities of the area in accordance with policy PCS23 of the Portsmouth Plan.
- 7) To improve the appearance of the site in the interests of visual amenity in accordance with policies PCS13 & PCS23 of the Portsmouth Plan.
- 8) In the interests of highway safety in accordance with policy PCS23 of the Portsmouth Plan
- 9) To ensure adequate provision for and to promote and encourage cycling as an alternative to use of the private motor car in accordance with policies PCS14, PCS17 and PCS23 of the Portsmouth Plan.
- 10) To ensure that adequate provision is made for the storage of refuse and recyclable materials in accordance with policy PCS23 of the Portsmouth Plan.

#### PRO-ACTIVITY STATEMENT

In accordance with the National Planning Policy Framework the City Council has worked positively and pro-actively with the applicant through the pre-application process to achieve an acceptable proposal without the need for further engagement.

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City Development Manager  
20<sup>th</sup> October 2014