

PLANNING COMMITTEE

14 OCTOBER 2015

5 PM EXECUTIVE MEETING ROOM,
3RD 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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01

15/00862/FUL

WARD: ST JUDE

94 NAPIER ROAD SOUTHSEA PO5 2RB

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

Application Submitted By:

Mr Joshua Stewart

On behalf of:

Mr Joshua Stewart

RDD: 1st June 2015

LDD: 5th August 2015

SUMMARY OF MAIN ISSUES

This application was deferred at the previous meeting of the Planning Committee (held on 16 September 2015) and officers requested to investigate a number of potential HMO properties within Napier Road identified in a deputation by Councillor Symes.

The determining issues for this application relate to the suitability of the proposed C3/C4 use within the existing community and its potential impact upon the living conditions of adjoining and neighbouring residents. Other considerations are whether the proposal complies with policy requirements relating to car and cycle parking.

The Site

This application relates to a two storey mid-terraced dwellinghouse located on the western side of Napier Road. The property is currently undergoing renovation and proposed floor plans indicate that it will comprise a living room, bedroom, kitchen and shower room at ground floor level and three bedrooms at first floor level. The property has been extended at the rear in the form of a single storey flat roofed addition to improve kitchen and bathroom facilities. This extension is currently unauthorised however a retrospective planning application has been received seeking to regularise the situation. New cycle and bin storage facilities are shown to be provided at the rear of the garden.

The site falls within the indicative area at risk of flooding (zones 2 and 3).

The Proposal

The lawful use of the property falls within Class C3 (dwellinghouse) of the Use Classes Order. This application seeks to change the use of this property from Class C3 (dwellinghouse) to purposes falling within Class C3 (dwellinghouse) or Class C4 (House in Multiple Occupation). Normally, a change of use between Class C3 and Class C4 would be classed as permitted development within the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). On the 1st November 2011 however, Portsmouth City Council implemented an Article 4 Direction relating to HMOs. As a result, planning permission is now required for a change of use between Class C3 (dwellinghouse) and Class C4 (House in Multiple Occupation) where between three and six unrelated people share at least a kitchen and/or bathroom.

Planning History

A retrospective planning application (15/01612/HOU) has been received seeking permission for the single storey flat roofed extension to the rear of the application site.

POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include: PCS12 (Flood Risk), PCS17 (Transport), PCS20 (Houses in Multiple Occupation (HMOs)), PCS23 (Design and Conservation).

In addition to the above policies, the aims and objectives of the National Planning Policy Framework and the Houses in Multiple Occupation Supplementary Planning Document are relevant.

CONSULTATIONS

None.

REPRESENTATIONS

14 letters of objection have been received on the following grounds:

- * would place additional pressure on existing limited available parking
- * alarmed at increase in number of HMO's in area - suggest the 10% threshold must be exceeded already
- * general concern about the unkempt appearance of some HMO properties and the often noisy and unsociable nature of some of the occupants
- * a HMO use would not be an appropriate use of a property surrounded by young families and small children

Following the Planning Committee of 16 September a further letter was received suggesting that Nos. 31, 37, 39, 41, 43, 45, 68, 70 and 72 Napier Road have been in HMO use over the past year.

COMMENT

The determining issues for this application relate to the suitability of the proposed C3/C4 use within the existing community and its potential impact upon the living conditions of adjoining and neighbouring residents. Other considerations are whether the proposal complies with policy requirements relating to car and cycle parking. Whilst the property lies within an indicative flood risk area it is not considered that the proposed change of use would render the property or its occupants any more vulnerable to tidal inundation than at present.

This application seeks permission to change the use of this property from purposes falling within Class C3 (dwellinghouse) to purposes falling within Class C3 (dwellinghouse) or Class C4 (House in Multiple Occupation). This would give the applicant greater flexibility to change between these two use classes.

Policy PCS20 of the Portsmouth Plan states that applications for changes 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 provides further detail on how this policy will be implemented and how the City Council will apply this policy to all planning applications for HMO use.

Investigation of a number of potential HMO properties identified within Napier Road by Councillor Symes and an objection letter (in addition to those revealed on the HMO database) has concluded that:

- * No.31 falls outside of the 50m radius search area for 94 Napier Road
 - * Nos.41, 43, 45 and 68 are already on the Councils HMO database and as such have already been included in the HMO count for this application
 - * Nos.39, 70 and 72 Napier Road have Class C3 use
 - * No.37 has no HMO planning history and no HMO licence. No one answered the door when visited by a PCC Planning Implementation and Monitoring Officer and no response, to date, has been received to a postcard left at the property requesting contact. However, information received via the Council Tax Service has revealed that the property has been let on a room only basis (to 4 people at a time) and has been considered a HMO from 1st November 2011. As such, on the balance of probability based on the information available, it would appear that 37 Napier Road is occupied as a Class C4 HMO use and can be included within the count
 - * No.73 has no HMO planning history nor an HMO licence, however, a visit to No.73 by the PCC Planning Implementation and Monitoring Officer established that the property is currently occupied as a HMO (3 occupants) and Council Tax records corroborate that the property has been used as such for a number of years
- * Nos 69 Duncan Road and 6 Lowcay Road initially appeared on the HMO database as they fell within the 50m radius search area for 94 Napier Road. Both properties were however not included within the HMO figures reported to the previous Planning Committee as records revealed them to be in Class C3 use. A subsequent visit by the PCC Planning Implementation and Monitoring Officer confirmed this to be the case.

Therefore investigation has indicated that of the 88 properties located within a 50m radius of this property, 8 (i.e. the 6 initially identified and two additional properties at 37 Napier Road and 73 Napier Road) are currently in Class C4 HMO use.

The use of this property for purposes falling within Class C4 would increase this to 9 out of 88 or 10.22%. The proposed change of use would result in the 10% threshold set out in the Houses in Multiple Occupation SPD being exceeded. It is therefore considered that this application would result in the community becoming imbalanced contrary to the aims and objectives of policy PCS20 of the Portsmouth Plan.

With regards to the impact of the proposed use upon the living conditions of adjoining occupiers, the level of activity, including the demands placed on existing available on-street parking, 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. The Houses in Multiple Occupation SPD is supported by an assessment of the supply, demand and community impacts of shared housing in Portsmouth. Paragraphs 9.1-9.10 discuss the negative impacts upon local communities resulting from concentrations of Class C4 HMO uses. It is therefore considered that the use of this property for C3/C4 purposes does not have a detrimental impact upon the living conditions of local residents.

There is no off street parking provision at this property and none is proposed as part of this application however this property is located within a short walk of local transport links, shops and services. The submitted proposed ground floor plans indicate the provision of a cycle store at the rear of the garden. Whilst the principle of such storage is acceptable, the enclosure is not of sufficient size to accommodate 4 cycles and therefore represents inadequate provision. Whilst this could be addressed by way of a suitably worded planning condition, it would not overcome the harm arising from the imbalance of uses in the area.

Storage for refuse and recyclable materials would remain essentially unchanged.

RECOMMENDATION Refuse

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

2) 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.

02

15/01417/FUL

WARD: ST JUDE

10-14 GROVE ROAD SOUTH SOUTHSEA PO5 3QT

CHANGE OF USE FROM RETAIL (A1 CLASS) TO RESTAURANT (A3 CLASS)

Application Submitted By:

Martin Critchley Architect
FAO Mr Martin Critchley

On behalf of:

L.C. Isted Trust
FAO Mr R Isted

RDD: 1st September 2015

LDD: 29th October 2015

SUMMARY OF MAIN ISSUES

The application is being considered by the Planning Committee at the request of Councillor Symes.

The key issues in this application are whether the principle of the change of use to a Class A3 use is acceptable in this location; whether the proposal would be likely to result in any significant loss of residential amenity; and, whether the change of use would be likely to preserve or enhance the character and appearance of 'Owen's Southsea' Conservation Area.

The Site and Surroundings

The application site is located on the corner of Merton Road and Grove Road South and comprises a single storey, flat roofed building (circa 1920's, 200m²) with a predominantly glazed frontage onto Grove Road South. The property falls within 'Owen's Southsea' Conservation Area and is close to a number of listed and locally listed buildings. It is currently being occupied by 'Southsea Motor Factors', a Class A1 retail use (selling vehicle parts). Also within the applicants ownership is a large two storey house to the rear (east) which is currently occupied by 8 unrelated individuals as a House in Multiple Occupancy and 8 Grove Road South, an abutting

unit currently in Class A5 takeaway use with residential above. The site lies within the indicative floodplain identified at risk of flooding (zone 2).

The Proposal

The application seeks planning permission for a change of use from retail (Class A1) to restaurant (Class A3). The applicant does not currently have a particular end-user in mind and as such the application does not include specific details with respect to cooking extraction/ventilation details, layout or opening hours. There is no on-site parking provision associated with this application.

Planning History

The relevant planning history includes:

B*22457/H - Change of use from shop to showroom for the sale of new and used motor vehicles - conditional permission 9/4/70

B*22457/G - Change of use of the shop from retail shop to office for specialised computerised data preparation work - conditional permission 25/9/69

B*22457/F - Use of the shop premises as a licensed social club - refused 27/2/69

B*22457/C - Use of ground floor accommodation as a registered licensed club - refused 3/5/62

POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include:
PCS23 (Design and Conservation).

In addition to the policies above, the aims and objectives of the National Planning Policy Framework and the Owens Southsea Conservation Area Guidelines are relevant.

CONSULTATIONS

Environmental Health

This consultation is with regard to the potential impact on the amenity of the neighbouring residential use from the proposed change of use.

The area in question is mixed residential/commercial although this address marks the northernmost limit of the local commercial district. Directly to the south at 8 Grove Road South there is an A5 takeaway, and premises south until Marmion Road is reached include estate agents and a beauty/nail salon.

Very little detail concerning the proposal is included in the application. No detail is provided for the location and size of the kitchen, the number of covers, any proposed kitchen extraction equipment or other equipment, or hours of opening. A design, access and heritage statement is included in the application. This details the applicant's 'intentions' with regard to pollution. The applicant intends to "reduce the likelihood of noise from the new development affecting nearby noise sensitive buildings" but there is no mention of how this is to be achieved. No mention is made of potential issues with kitchen odours. Section 12.5 refers to access to apartments but I am unaware of any apartments other than perhaps the residential use at 10 Grove Road South which I was under the impression was a different property and not connected to the application site.

The property itself is single-storey with a flat roof. The options for the location of kitchen extraction ducting and other equipment appear to be limited only to the flat roof, with access to

the roof by the ducting going through the roof. The property to the east of the application site (10 Grove Road South) is residential and is two-storey. Several windows have a view to the west over the flat roof. The introduction of plant and a kitchen extraction system onto the roof is likely to impact on the amenity of the residents at 10 Grove Road South, through both noise and odour. A technical solution is possible to control the noise and odour impacts from the kitchen operations although that solution may not be acceptable on other grounds, such as visual impact. Any technical solution will need to be carefully designed, with the location of the plant/equipment being crucial.

Should you be minded to grant planning permission I recommend that the following conditions be applied:

Prior to the commencement of the A3 use, equipment shall be installed to suppress and disperse odour and fumes emitted from cooking operations arising from this use. Prior to installation, details of the proposed equipment shall be submitted to the local planning authority for approval. Approved equipment shall then be installed and maintained in accordance with the manufacturer's recommendations.

Prior to the installation of the proposed kitchen extraction system an assessment of noise from the operation of the plant shall be undertaken using the procedures within British Standard BS4142:2014 and a report submitted to the local authority for approval. Upon approval all specified measures to mitigate any identified observed adverse effect levels due to the operation of the plant shall be implemented.

Other than noise from the plant and equipment, there is also the potential for noise arising from the operation of the proposed restaurant to impact on the amenity of neighbouring uses. Potential impacts include noise from customers arriving and departing, noise from entertainment provided within the restaurant and noise from customers outside the premises, smoking for example.

No specific opening hours have been applied for. The two closest A3 premises are Churchills at 25 Marmion Road and at 6 Palmerston Road, both to the south of the proposed business location. The premises at 6 Palmerston Road are conditioned to close at 23:00 hours and the premises at 25 Marmion Road are conditioned to close at 19:00 Sunday to Thursday and 22:00 on Friday and Saturday.

As mentioned above, the application site represents the northern-most edge of the local commercial district and, as such, is bound to the north, east and west by residential use. A decision concerning the opening hours should reflect this relationship.

REPRESENTATIONS

16 letters (2 from one address) and one petition (with 61 signatures) of objection have been received expressing the following concerns:

- * do not need another eating place in Southsea (already have 50 in area)
- * will create parking problems; parking already limited due to double yellow lines; indiscriminate parking could impede free flow of traffic and public transport; patrons of restaurant likely to park for longer than shoppers
- * patrons of restaurant may use Holmbush Court parking area
- * increased late night noise (possibly including music) and disturbance
- * increase in litter in area
- * smokers/drinkers may congregate on narrow pavement outside premises
- * inappropriate use in this residential area
- * proximity to residential properties including those at Holmbush Court (a retirement complex), Admiral Square and Grove Road South
- * cooking odours

- * proposal is not consistent and undermines the Southsea Town Centre Area Action Plan (AAP) (Policy STC4) as outside the area where new restaurants and cafes are encouraged i.e. Osborne Road and Palmerston Road South and as such would create a poor precedent; new restaurant away from AAP could create problems of monitoring and control for police force
- * the short commercial area at the southern end of Grove Road South has no licensed premises - concern that a new restaurant would be licensed and would turn into a drinking establishment that serves food which would be inappropriate in a residential area
- * whilst a genteel bistro or tearoom might suit the building and neighbourhood, there is almost no way to control the nature of the restaurant and its clientele once established - a loud and garish establishment would harm the heritage environment and be detrimental to character of 'Owen's Southsea' conservation area
- * would greatly affect existing Chinese takeaway business at 8 Grove Road South
- * 2 previous refusal for licenced social club were refused in 1962 and 1969 - still inappropriate
- * a change to a restaurant may not necessarily improve the decorative condition of the shop

COMMENT

The key issues in this application are whether the principle of the change of use to a Class A3 use is acceptable in this location; whether the proposal would be likely to result in any significant loss of residential amenity; and, whether the change of use would be likely to preserve or enhance the character or appearance of the 'Owen's Southsea' Conservation Area or would preserve setting of nearby listed buildings.

Whilst it is noted that the application site lies within an indicative flood risk area it is not considered that users of the building or its contents would be rendered any more vulnerable to the risk of flood inundation than at present.

Principle

The main policy consideration is PCS23 of the Portsmouth Plan which seeks development that relates well to the city's conservation areas, is appropriate in scale, layout and appearance in relation to the particular context, that any car parking and cycle storage should be secure, well designed and convenient and the protection of amenity and the provision of a good standard of living environment for neighbouring and local occupiers as well as users of the development.

The application site lies outside of the Southsea Town Centre Area Action Plan which covers the whole town centre extending from Osborne Road to Marmion Road including Palmerston Road, Clarendon Road and Kent Road. As such, whilst Policy STC4 seeks to encourage new restaurants and cafes to locate in Osbourne Road and Palmerston Road South this application must be considered on its own merits.

The loss of a retail unit outside of the defined boundaries of the Southsea Town Centre (Policy STC2) raises no site specific policy objection. A restaurant use is potentially an acceptable use within a mixed retail (A1), takeaway (A5) and residential area such as this subject to appropriate safeguards to ensure the use does not result in any significant loss of residential amenity.

Residential Amenity

The application site occupies the end units of a parade of shops and A5 uses, the southern part of which lies within the Southsea Town Centre boundary. Given that the application site has a retail use, daytime activity in and around the unit is already established and would not be dissimilar to that generated by a restaurant use. It is acknowledged that an evening operation of a restaurant use would introduce additional activity within this fringe area adjacent the town centre however opening hours could be imposed to reflect the proximity to residential properties. Closing times of 2200 hours daily would be reasonable in the context of this quieter location.

As this is a speculative approach, no extraction/ventilation or noise protection scheme has been put forward. The location of any kitchen or the proposed cooking processes have also not been identified. Given that this building is single storey, flat roofed, within a conservation area and close to residential properties and a number of listed buildings it would be essential to ensure an effective and visually sensitive solution to any such scheme. Therefore, in the absence of any specific details, it cannot be concluded that any necessary extraction system for odorous cooking processes would be acceptable in relation to the identified heritage assets. For this reason it is considered necessary to limit by condition the cooking processes to ensure no external flue and associated equipment is required. Any proposal to alter the cooking processes would need to be the subject of a separate application to properly assess the implications of any external works.

The application site offers no on-site parking provision. It is considered unlikely that the proposal would encourage indiscriminate parking as patrons of a restaurant use would generally not be making quick visits of the type more associated with A5 (takeaway) uses. Planning permission would be required for a change of use to Class A5 however a condition to prevent an ancillary A5 use is necessary to address such concerns.

'Owen's Southsea' Conservation Area and Nearby Listed Buildings

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'.

A restaurant use of this building, subject to the conditions recommended to ensure an acceptable level of evening activity and a sensitive method of dealing with any extraction flue and associated equipment, is considered to preserve the character and appearance of 'Owen's Southsea' Conservation Area. The building's frontage is currently in need of repair (e.g. some glazing requires replacement) and these improvements would serve to enhance the buildings contribution to the appearance of this conservation area. Alterations to the shop front beyond like-for-like repair would require planning permission in their own right.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that decision makers 'shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'.

Whilst there are listed and locally listed buildings nearby within Grove Road South and Merton Road, given that there are no external alterations proposed to the building, the proposed use is considered to have an acceptable relationship with these heritage assets and would preserve their setting.

Conclusion

The proposal is considered in accordance with policy PCS23 of the Portsmouth Plan and is capable of support subject to the recommended conditions.

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: Site Plans 0939-2010 and Ground Floor Plan 0939-1010 received 3/9/15.
- 3) The premises shall be closed and vacated by the public between 2200 hours and 0830 hours daily.
- 4) Prior to the restaurant (Class A3) use hereby permitted being brought into use, refuse and recyclable materials storage facilities shall be provided in accordance with a detailed scheme to be submitted to and approved by the local planning authority in writing, and those facilities shall thereafter be retained for the continued use by the restaurant for that storage at all times.
- 5) No hot food take-away service or home delivery service shall operate from the premises.
- 6) No cooking processes other than the preparation of hot beverages; toasting of bread or heating of food in a microwave oven, domestic oven or domestic cooking device shall be undertaken within Class A3 premises hereby permitted.

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 protect the amenities of the occupiers of the adjoining and nearby residential properties and the character of the Owens Southsea Conservation Area in accordance with Policy PCS23 of the Portsmouth Plan.
- 4) To ensure that adequate provision is made for the storage of refuse and recyclable materials in accordance with policy PCS23 of the Portsmouth Plan.
- 5) To protect the amenities of the occupiers of nearby properties and in the interests of highway safety, in accordance with Policies PCS23 of the Portsmouth Plan.
- 6) In the interests of preserving the character and appearance of 'Owen's Conservation Area' in accordance with policy PCS23 of the Portsmouth Plan in the absence of any details regarding any external extraction flue or associated extraction and ventilation system to deal with the dispersal of cooking odours.

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.

03

15/01422/FUL

WARD: EASTNEY & CRANESWATER

48 FESTING GROVE SOUTHSEA PO4 9QD

CHANGE OF USE FROM GUEST HOUSE (CLASS C1) TO 9 BED HOUSE IN MULTIPLE OCCUPATION (SUI GENERIS)

Application Submitted By:

Allen Planning Ltd
FAO Mr Tony Allen

On behalf of:

Mr G Barrett

RDD: 1st September 2015

LDD: 28th October 2015

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. Other considerations are whether the proposal complies with policy requirements in respect of SPA mitigation, car and cycle parking.

The Site

This application relates to a two-storey (with accommodation within the roof space and a basement) mid-terraced property located to the southern side of Festing Grove, just to the east of its junction with Bristol Road. The property is set back from the highway by a small front forecourt and benefits from a rear access to the garden via a narrow alleyway. Currently the property is in use as a guesthouse comprising eight bedrooms, one of which is used occasionally by staff. The surrounding area is predominantly residential in character with similar terraced properties.

The Proposal

Planning permission is sought for the change of use from a guest house (Class C1) to 9 bedroom House in Multiple Occupation (sui generis).

Planning History

Planning permission was granted in July 2015 (ref.15/00649/FUL) for the change of use from a guest house (Class C1) to form a single dwellinghouse (Class C3). This permission has not been implemented but remains extant.

Planning permission was granted in 1982 (ref. A*31978/A) for the change of use to guesthouse and erection of a ground floor extension to provide two additional bedrooms for private use.

Planning permission was granted in 1982 (ref. A*31978/B) for the provision of dormer rooms to form additional bedrooms.

Planning permission was granted in 1984 (ref. A*31978/C) for a dormer extension to form an additional bedroom.

POLICY CONTEXT

In addition to the aims and objectives of the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS13 (A greener Portsmouth), PCS16 (Infrastructure and community benefit), PCS17 (Transport), PCS20 (Houses in Multiple Occupation (HMOs)), and PCS23 (Design and Conservation). The Houses in Multiple Occupation SPD, the Parking Standards SPD and the Solent Special Protection Areas SPD are also relevant to the proposed development.

CONSULTATIONS

Contaminated Land Team

Comments not received at the time of writing.

Highways Engineer

Comments not received at the time of writing.

REPRESENTATIONS

At the time of writing nine letters of representation had been received from local residents and Councillor Luke Stubbs (Ward Member for Eastney & Craneswater). Their objections can be summarised as follows: (a) there are currently too many HMOs within the surrounding area (Nos. 42, 44, 52 & 56 Festing Grove) and No.46 has been converted to flats; (b) reduction of housing stock for families; (c) increased noise & disturbance and anti-social behaviour (d) HMOs generate more refuse which can become an eyesore and attracts foxes; and (d) proposal will exacerbate parking issues within the area.

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 SPA mitigation, car and cycle parking.

Principle of HMO Use

Policy PCS20 of the Portsmouth Plan states that applications for changes 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 provides further detail on how this policy will be implemented and how the City Council will apply this policy to all planning applications for HMO uses.

In identifying the area surrounding the application property, 6 of the 58 properties within a 50 metre radius were initially identified as being in use as HMOs. This was based on records held within the City Council's HMO database which is made up of records of properties with planning permission for Class C4 use, sui generis HMO use and mixed C3/C4 use, records of Class C4 HMOs submitted to the council by property owners, HMOs that have been issued a licence by the council and council tax records. Whilst this is the best available data to the Local Planning Authority and is updated on a regular basis, there are occasions where properties have been included or omitted from the database in error or have lawfully changed their use away from Class C4 HMOs without requiring the express permission of the LPA.

Following a review of the properties initially identified as HMOs within the 50 metre radius, it has been established that two of these properties (Flat 2, Middle Front 41 Salisbury Road and 55

Salisbury Road) were not in use as HMOs. Subsequently, the 'count' data has been modified to reflect this new information and the number of HMOs as a percentage calculated as 6.70% (4/58), rising to 8.62% (5/58) if permission was granted. On the basis that the granting of planning permission would increase the proportion of HMOs to less than 10%, it is considered that the community is not already imbalanced by a concentration of HMO uses and this application would not result in an imbalance of such uses. The proposal is therefore, considered to be acceptable in principle. No information has been provided to suggest that any other of the properties identified within the 50m radius are in lawful use as HMOs but have been omitted from the 'count data'.

Whilst representations refer to a reduction of housing stock available for families, it should be noted that the property currently benefits from a lawful use as a guesthouse and the proposal would not result in the net loss of a family dwelling. It is accepted that there is a need for further family units within the city as highlighted within Policy PCS19 of the Portsmouth Plan and the property currently benefits from an extant unimplemented permission for use as a single dwellinghouse (Class C3). A developer cannot be obliged to implement a permission when it has been given and it would not be reasonable to assume that the refusal of the current application would result in implementation of the extant C3 permission. Therefore, such a consideration should not be regarded as material to determining this application. Policy PCS20 of the Portsmouth Plan highlights an identified need for further HMOs within the city.

Impact on Residential Amenity

In considering potential impact on residential amenity, regard must be given to the lawful planning use of the property as a guesthouse (Class C1) with up to 8 bedrooms. Whilst it is accepted that the guesthouse is unlikely to operate at full capacity throughout the year, its use would inevitably result in a level of activity that would be more intensive than a typical family dwellinghouse.

On that basis, it is considered that use of the property as a 9 bedroom HMO would not result in a demonstrably greater level of activity, noise or disturbance that could be associated with the existing use of the site as a guesthouse.

Car Parking and Cycle Storage

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). The Parking Standards SPD sets out that a sui generis HMO should be served by two off-street spaces. However, the existing lawful use of the property as a guesthouse would have attracted its own demand for parking, particularly having regard to its distance from the city centre and nearest railway station. On that basis, it is considered that the proposed use is unlikely to result in a significant additional demand for parking beyond that associated with the existing lawful use.

Whilst the demand for parking is unlikely to increase, given the residential nature of the proposal, it is considered that future occupants are more likely to use public transport or bicycles. Therefore, to encourage the use of more sustainable modes of transport to the car, it is considered that a suitably worded planning condition requiring the provision of adequate bicycle storage facilities would be both necessary and reasonable.

Having regard to the existing lawful use of the premises as a guesthouse, it is considered that the demand for refuse and recyclable storage facilities would not be significantly different.

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 as a Special Protection Area, or otherwise affect protected habitats or 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 development proposed is not necessary for the management of the SPA. 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. It is however, noted that the lawful use of the property is not currently as a dwellinghouse.

Therefore, based on the methodology in the SPD, an appropriate scale of mitigation would be calculated as £348 (2 x £174, guesthouse to dwellinghouse (C3) or HMO (C4) + dwellinghouse (C3) or HMO (C4) to sui generis HMO). The applicant has agreed to provide this mitigation through an agreement under S111 of the Local Government Act. The level of mitigation which will be provided is considered sufficient to remove the significant effect on the SPAs which would otherwise have been likely to occur.

RECOMMENDATION A: That delegated authority be granted to the Assistant Director of Culture & City Development to grant Conditional Permission subject to first securing a planning obligation or an agreement for payment of a financial contribution of £348 to mitigate the impact of the proposed residential development on the Solent Special Protection Areas and subject to no representation raising new material planning issues.

RECOMMENDATION B: That delegated authority be granted to the Assistant Director of Culture & City Development to refuse planning permission if the agreement referred to in Recommendation A has not been secured by 28th October 2015.

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: Site Location Plan, Block Plan, Proposed Ground Floor Plan and Proposed Upper Floor Plans.
- 3) Prior to the first occupation of the property as a House in Multiple Occupation (sui generis), secure and weatherproof bicycle storage facilities shall be provided in accordance with a detailed scheme (to include materials, size, appearance and security) to be submitted to and approved in writing by the Local Planning Authority. The 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) To ensure appropriate provision is made for cyclists to promote and encourage alternative and sustainable modes of transport to the private car, 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.
