

PLANNING COMMITTEE

11 NOVEMBER 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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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

This application was deferred at the previous meeting of the Planning Committee (held on 14 October 2015) to investigate potential HMOs within the area surrounding the application site beyond those previously identified and discounted.

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

Given the relatively limited scope of the works a condition relating to land contamination is not required.

Highways Engineer

No information regarding the provision of cycle or refuse storage facilities for future residents of the HMO have been provided.

There will be a requirement for four bicycle storage spaces at the property. However, no information has been provided to demonstrate how they intend to achieve this.

At Section 7 of the application form the applicant specifically states that there are no details of refuse storage on the plans and neither have arrangements been made for collection. They will need to show how they intend to provide cycle and refuse storage.

REPRESENTATIONS

At the time of writing nineteen 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 Festing Grove 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; (e) proposal will exacerbate parking issues within the area; (f) loss of the guest house; and (g) Impact on property value. In addition, Councillor Winnington has identified a number of additional properties that may be in use as HMOs but have not included within the 'count' data.

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. In addition to those initially identified, the Local Planning Authority has also investigated a total of nine other properties raised as potential HMOs within representations and by Ward Members.

No evidence was found to substantiate the claim that six of the identified properties were occupied as HMOs, and two that were found to be in use as HMOs were situated outside of the 50m search area. The one remaining property was found to be occupied by a number of individuals within a sub-divided building. However, following a site visit on 22 October 2015 it has been established that the use of that property is unlawful and the matter has been passed on to the City Council's Planning Enforcement and Private Sector Housing Teams to consider further action. Therefore, notwithstanding the current occupation of that property, on the basis that its use cannot be regarded as lawful, it cannot be included as a HMO within the 'count' data for the current planning application.

In light of these investigations, the 'count' data has been modified 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.

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

Whilst the concerns raised within representations is noted, in considering the 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 dwelling houses 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.

Other issues raised within representations

Whilst there is an identified demand for additional hotel/guesthouse bed spaces within the city, there are no planning policies to prevent the loss of existing facilities.

Impact on property value is not a material planning consideration.

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.

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 26th November 2015.

RECOMMENDATION Subject to Legal Agreement(s)

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.

Assistant Director of Culture & City Development
2nd November 2015