

Planning and Rights of Way Panel 6th August 2019
Planning Application Report of the Service Lead – Infrastructure, Planning & Development

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| Application address: 8 Devonshire Road, Southampton | | | |
| Proposed development: Change of use from a dwelling house (class C3) to flexible dwelling house (class C3) or a house in multiple occupation (HMO, class C4) for up to 5 persons. | | | |
| Application number | 19/00990/FUL | Application type | FULL |
| Case officer | Mark Taylor | Public speaking time | 5 minutes |
| Last date for determination: | 26 July 2019 (Extension of Time agreed until 14 August 2019) | Ward | Bargate |
| Reason for Panel Referral: | Five or more letters of objection have been received | Ward Councillors | Cllr Bogle Cllr Noon Cllr Paffey |
| Referred to Panel by: | N/A | Reason: | N/A |

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| Applicant: Mr C Baena Blanco | Agent: Kingston Studio |
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| Recommendation Summary | Conditionally Approve |
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| Community Infrastructure Levy Liable | N/A |
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Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with the development plan as required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 39 – 42 and 46 of the National Planning Policy Framework (2019).

Policies - SDP1, SDP7, SDP9 and H4 of the City of Southampton Local Plan Review (as amended 2015) and CS13 and CS16 of the Local Development Framework Core Strategy Development Plan Document (as amended 2015) as supported by the revised HMO SPD (revised 2016).

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| Appendix attached | | | |
| 1 | Development Plan Policies | 2 | 40m Assessment Summary |

Recommendation in Full: - Conditionally approve

1.0 The site and its context

- 1.1 The application site is located on the western side of Devonshire Road and contains a two-storey, semi-detached dwelling. There is a small front garden, enclosed with a low wall, and a side access path leading to a modest rear garden.
- 1.2 The property is located within a residential area characterised by a mix of semi-detached and terraced housing. There is a high concentration of HMOs in the locality, which is west of the Bedford Place/London Road commercial area. Devonshire Road and the surrounding streets are covered by a residents' parking permit scheme (Zone number 1, 8am-6pm Monday to Friday) and, in some stretches of road, 2 hours maximum parking.

2.0 Proposal

- 2.1 Planning permission is sought for a Class C4 House of Multiple Occupation (HMO) for up to 5 people. As per the HMO Supplementary Planning Document (HMO SPD), revised in 2016, a condition can be applied to allow swapping between a C3 single family dwelling and a C4 HMO use for a period of 10 years without the need for planning permission, with the use at the end of the 10 year period becoming the lawful use from that point onwards. This 'flexible' type of permission enables the owner to rent to both families and sharers without the need for further permission.
- 2.2 There are no external or internal structural changes to the layout of the property proposed, merely the conversion of the ground floor middle dining room into a bedroom.

3.0 Relevant Planning Policy

- 3.1 The Development Plan for Southampton currently comprises the "saved" policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015). The most relevant policies to these proposals are set out at **Appendix 1**.
- 3.2 The National Planning Policy Framework (NPPF) came into force on 27th March 2012, and then was recently revised in February 2019, and replaces the previous set of national planning policy guidance notes and statements. The Council reviewed the Core Strategy when the NPPF first came in to force, to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.
- 3.3 Core Strategy CS16 and Saved Local Plan policy H4 are relevant to the determination of planning applications relating to HMOs. Policy CS16 of the Core Strategy states that the contribution that the HMO makes to meeting housing need should be balanced against the impact on character and amenity of the area. Saved policy H4 of the Local Plan requires new HMOs to respect the amenities of neighbouring properties and the character of the area and to provide adequate private and useable amenity space.
- 3.4 The Houses in Multiple Occupation SPD (HMO SPD) was adopted in March 2012, and more recently revised in 2016, and provides supplementary planning guidance for policies H4 and CS16 in terms of assessing the impact of HMOs on the character and amenity and mix and balance of households of the local area. The revised SPD (2016) sets a city-wide maximum threshold of 10% for the total number of HMOs within a 40m radius from the front door of the application site, or the 10 nearest residential properties (section 6.5 of the HMO SPD refers). The

SPD also details the approach to be taken in exceptional circumstances (section 4.5 of the HMO SPD refers), where a significant level of HMO saturation has already occurred in a street, which in turn negatively impacts the market demand for C3 family housing in that location. The threshold set for assessing when exceptional circumstances can be considered is 80% (i.e. at least 80% of dwellings within the 40m radius are already in operation as HMO properties). The Panel will recall that before this change the Council's policy was that only the last 1 or 2 properties in an area defined exclusively as HMOs would be allowed to convert to an HMO. This was considered to be an unreasonable position for those owners of C3 dwellings living within areas dominated by HMOs who were unable to sell.

4.0 Relevant Planning History

4.1 There have been no previous applications on this site.

5.0 Consultation Responses and Notification Representations

5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, and placing a site notice on 21/06/2019. At the time of writing the report **5 representations** from 2 households have been received from surrounding residents. A further representation has been received from Ward Cllr Noon. The following is a summary of the points raised:

5.2 **There are already too many HMOs in the area, the 10% threshold has been exceeded, to allow more would further unbalance the community.**

Response: It is acknowledged that there are a significant number of HMOs within this area of the city, and that the 10% threshold assessment detailed within the HMO SPD has already been exceeded in the 40m radius from the site. It is important to note, however, that the threshold for exceptional circumstances has now been reached (at least an 80% concentration of HMOs within the 40m radius area) and therefore exceptional circumstances can be considered for this site.

5.5 Consultation Responses

5.6 No Consultation responses have been received

6.0 Planning Consideration Key Issues

6.1 The key issues for consideration in the determination of this planning application are:

- a) whether the proposed change of use from a C3 family dwelling to a C4 HMO is acceptable in principle;
- b) whether the proposed development would have a harmful impact on the character of the property and local area, the residential amenities of surrounding neighbours, or parking in the local area;
- c) whether the proposal would have a harmful impact upon the amenities of the occupants of the host dwelling.

6.2 Principle of Development

6.2.1 The existing property could easily be returned to use as a family dwelling at any time by way of a change of tenants, as the building structure and internal layout would remain unchanged from the previous use as a C3 family dwelling. The change from a C4 HMO use to a C3 dwelling would not require planning permission. The proposal does not, therefore, result in the net loss of a family home and the proposal would be in accordance with policy CS16 of the Core

Strategy. The proposed development is also in accordance with saved policies H1 and H2 of the Local Plan which support the conversion of existing dwellings for further housing and require the efficient use of previously developed land. As confirmed by Core Strategy Policy CS16, the proposed HMO use meets a recognised housing need for single households or for those with lower incomes and is therefore, acceptable in principle.

- 6.2.2 Although the threshold assessment shows that the initial 10% HMO concentration has been breached within a 40m radius of the front door of the application site, this concentration has now met the 80% threshold at which claims for exceptional circumstances can be made, if it can be demonstrated that the property has been marketed as a C3 family dwelling (Section 4.5 of the HMO SPD (amended 2016) refers). This exercise took place between the 7th September 2018 and 28th March 2019 with no market interest as confirmed by Cryers Lettings of Bedford Place. Exceptional circumstances is effective for situations where the HMO concentration is very high and the retention of remaining C3 dwellings “will have little effect on the balance and mix of households in a community which is already over dominated by the proportion of existing HMO households. Therefore, the conversion of the remaining buildings to a HMO would not further harm the character of the area” (para 4.5.2 HMO SPD 2016).
- 6.2.3 The existing concentration of HMOs within a 40m radius of the application site is 83% (30 out of 36 eligible dwellings as set out at **Appendix 2**). As a result of this proposal, this concentration will rise to 86% (31 of 36 eligible dwellings). The exceptional circumstances threshold has, therefore been met and sufficient marketing evidence has been submitted.
- 6.2.4 The evidence from the lettings agent demonstrates that the property was marketed as a C3 dwelling at a reasonable market rent (£950pcm) compared to similar nearby properties, and that there was negligible interest from tenants who would meet the definition of a C3 single household.
- 6.3.2 In terms of parking, although there is no off street parking provided, the surrounding streets are restricted to either residents’ permit parking only, or 2 hours maximum without a permit. Paragraph 5.2 of the HMO SPD states that where a property is within a residents’ parking permit zone, occupants are entitled to apply for permits, however the number of permits available will be restricted in accordance with the local parking policy, which would control the number of cars associated with the dwelling. Furthermore the site is very close to local amenities within Bedford Place and London Road, and to the City Centre itself. As such, it is not considered that there would be a harmful impact on the levels of parking available in the local area.
- 6.4 Quality of the Residential Environment
- 6.4.1 Saved policy H4 of the City of Southampton Local Plan Review 2010 states that: ‘Planning permission will only be granted for conversions to houses in multiple occupation where: (i) it would not be detrimental to the amenities of the residents of adjacent or nearby properties; and (iii) adequate amenity space is provided which (a) provides safe and convenient access from all units; (b) is not overshadowed or overlooked especially from public areas; and (c) enables sitting out, waste storage and clothes drying’.
- 6.4.2 The proposal would retain a communal living space on the ground floor with separate lounge and kitchen area with direct access to the rear amenity area. A condition is recommended to secure retention of the communal living space. All

habitable rooms would have suitable outlook from existing windows and would be typical of the HMO's in the vicinity. Occupants of the property have access to a private garden that, whilst small, is characteristic of the properties in the area. The proposed bedrooms would be of suitable size, therefore, the amenity of the occupants of the host dwelling shall not be harmed. In addition, conditions are recommended to secure details of the proposed provision of refuse and cycle storage facilities.

7.0 Summary

7.1 The proposal for the conversion of the property to a C4 HMO is considered to be acceptable in principle, as exceptional circumstances have been demonstrated in relation to the threshold test, and the proposal shall not cause unacceptable harm to neighbouring amenity or highway safety. In addition, the amenity of the occupants of the host dwelling would not be harmed.

8.0 Conclusion

Subject to the imposition of the suggested conditions attached to this report, the proposal would be acceptable. The application is therefore recommended for approval.

Local Government (Access to Information) Act 1985 **Documents used in the preparation of this report Background Papers**

1(a), 1(b), 1(c), 1(d), 2(b), 2(d), 4(f), 4(qq), 4(vv) 6(a) 6(b)

MT for 06/08/19 PROW Panel

PLANNING CONDITIONS

01. Full Permission Timing Condition (Performance Condition)

The development hereby permitted shall begin no later than three years from the date on which this planning permission was granted.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

02. Approved Plans

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority.

Reason: For the avoidance of doubt and in the interests of proper planning.

03. Refuse & Recycling (Pre-Commencement)

Prior to the first use of the building as an authorised C4 HMO for 5 people, details of storage for refuse and recycling, together with the access to it, shall be submitted to and approved in writing by the Local Planning Authority. The storage shall be provided in accordance with the agreed details before the development is first occupied and thereafter retained as approved. Unless otherwise agreed by the Local Planning Authority, except for collection days only, no refuse shall be stored to the front of the development hereby approved.

Reason: In the interests of visual amenity, the amenities of future occupiers of the development and the occupiers of nearby properties and in the interests of highway safety.

04. Cycle storage facilities (Pre-Commencement Condition)

Prior to the first use of the building as an authorised C4 HMO for 5 people, secure and covered storage for bicycles shall be provided in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The storage shall be thereafter retained as approved.

Reason: To encourage cycling as an alternative form of transport.

05. C3/C4 dual use (Performance Condition)

The dual C3 (dwellinghouse) and/or C4 (House in multiple occupation) use hereby permitted shall be for a limited period of 10 years only from the date of this Decision Notice (under Class V, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015). The use that is in operation on the tenth anniversary of this Decision Notice shall thereafter remain as the permitted use of the property.

Reason: In order to provide greater flexibility to the development and to clarify the lawful use hereby permitted and the specific criteria relating to this use

Note to applicant: Whilst this planning permission allows occupation of the building as both a single dwelling and by a shared group, you are advised that an HMO that is licensed needs to have that license revoked before the building can lawfully be occupied again as a single dwelling.

06. Retention of communal spaces & number of occupiers (Performance Condition)

The rooms labelled kitchen/lounge on the proposed ground floor plan, together with the external amenity areas, shall be made available for use by all of the occupants prior to first

occupation of the property as a C4 HMO use, as hereby approved, and thereafter shall be retained and available for communal purposes when in use as a HMO. The number of occupiers within the property, when in HMO use, shall not exceed 5 persons unless otherwise agreed upon in writing by the Local Planning Authority.

Reason: To ensure that suitable communal facilities are provided for the residents, and in the interests of protecting the amenities of local residents.

The pre commencement conditions above were provided to the agent for the application on the 11th July 2019. These condition have been agreed in writing by the agent.

Note to Applicant

A HMO License is required in order to operate the property as a Class C4 HMO. The applicant is advised to contact the HMO licensing team for more information or to see the following link: www.southampton.gov.uk/housing/landlords/houses-multiple-occupation/

POLICY CONTEXT

Core Strategy - (as amended 2015)

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| CS13 | Fundamentals of Design |
| CS16 | Housing Mix and Type |
| CS19 | Car & Cycle Parking |

City of Southampton Local Plan Review – (as amended 2015)

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| SDP1 | Quality of Development |
| SDP5 | Parking |
| SDP7 | Urban Design Context |
| SDP9 | Scale, Massing & Appearance |
| H4 | Houses in Multiple Occupation |

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)
Parking Standards SPD (September 2011)
Houses in Multiple Occupation (amended 2016)

Other Relevant Guidance

The National Planning Policy Framework (revised 2019)

40m HMO Assessment Summary

| House | Road | Use | Count | HMO |
|-------------|-----------------|-----|-------|-----|
| 1 | Devonshire Road | C3 | 1 | |
| 2 | Devonshire Road | C3 | 2 | |
| 3 | Devonshire Road | C4 | 3 | 1 |
| 4 | Devonshire Road | C4 | 4 | 2 |
| 5 | Devonshire Road | C4 | 5 | 3 |
| 6 | Devonshire Road | C4 | 6 | 4 |
| 7 | Devonshire Road | C4 | 7 | 5 |
| 8 | Devonshire Road | C4 | 8 | 6 |
| 9 Flat 1 | Devonshire Road | C3 | | |
| 9 Flat 2 | Devonshire Road | C3 | | |
| 9 Flat 3 | Devonshire Road | C3 | | |
| 9 Flat 4 | Devonshire Road | C3 | | |
| 10 | Devonshire Road | C4 | 9 | 7 |
| 11 | Devonshire Road | C4 | 10 | 8 |
| 12 | Devonshire Road | C4 | 11 | 9 |
| 13 | Devonshire Road | C4 | 12 | 10 |
| 14 | Devonshire Road | C3 | 13 | |
| 15 | Devonshire Road | C4 | 14 | 11 |
| 16 | Devonshire Road | C4 | 15 | 12 |

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|--------------|-----------------|----|----|----|
| 17 | Devonshire Road | C4 | 16 | 13 |
| 18 | Devonshire Road | C4 | 17 | 14 |
| 19 | Devonshire Road | C3 | 18 | |
| 20 | Devonshire Road | C4 | 19 | 15 |
| 3 | Coventry Road | C4 | 20 | 16 |
| 5 | Coventry Road | C4 | 21 | 17 |
| 7 | Coventry Road | C4 | 22 | 18 |
| 9 | Coventry Road | C4 | 23 | 19 |
| 11 | Coventry Road | C4 | 24 | 20 |
| 13 | Coventry Road | C4 | 25 | 21 |
| 15 | Coventry Road | C4 | 26 | 22 |
| 17 | Coventry Road | C4 | 27 | 23 |
| 19 | Coventry Road | C3 | 28 | 23 |
| 46 | Wilton Avenue | C4 | 29 | 24 |
| 48 | Wilton Avenue | C4 | 30 | 25 |
| 50 | Wilton Avenue | C4 | 31 | 26 |
| 52 Flat 1 | Wilton Avenue | C3 | | |
| 52 Flat 2 | Wilton Avenue | C3 | | |
| 54 | Wilton Avenue | C4 | 32 | 27 |
| 56 | Wilton Avenue | C4 | 33 | 28 |
| 58 | Wilton Avenue | C4 | 34 | 29 |
| 62 | Wilton Avenue | C4 | 35 | 30 |
| 64 | Wilton Avenue | C4 | 36 | 31 |

36 dwellings, 31 HMO = 86%