



**IMPORTANT: THIS COMMUNICATION AFFECTS YOUR PROPERTY**  
**TOWN AND COUNTRY PLANNING ACT 1990**  
**(AS AMENDED BY THE PLANNING AND COMPENSATION ACT 1991)**

**ENFORCEMENT NOTICE**

**ISSUED BY: SOUTHAMPTON CITY COUNCIL** ("the Council")

**1 THIS NOTICE** is issued by the Council, because it appears to them that there has been a breach of planning control, within paragraph (a) of section 171A(1) of the above Act, at the land described below. They consider that it is expedient to issue this Notice, having regard to the provisions of the development plan and other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

**2 THE LAND TO WHICH THE NOTICE RELATES**

Land at 39 Thornbury Avenue, Southampton, SO15 5BQ, shown edged red on the attached plan ("the Land").

**3 THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**

Without planning permission, the material change of use of the Land to a house in multiple occupation (Use Class C4) and a single self-contained flat (Use Class C3).

**4 REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that the above breach of planning control has (i) in respect of the change of use to a house in multiple occupation, occurred within the last ten years, and (ii) in respect of the change of use to a single self-contained flat, occurred within the last four years.

The unauthorised development is contrary to saved policies SDP1(i) and H4 contained within the City of Southampton Local Plan Review 2nd revision (2015) (LP) and Policy CS16, CS19 and CS22 of the Local Development Framework Core Strategy Development Plan Document Partial Review (March 2015) as supported by the relevant sections of the Houses in Multiple Occupation Supplementary Planning Document (Approved May 2016), and Parking Standards Supplementary Planning Document (September 2011) as more particularly set out below:-

Impact on character and amenity

Policy H4 acknowledges that there is a need to maintain the supply of housing whilst balance this against maintaining a sustainable mix of households within the community.

The threshold test set out in section 4 of the Council's Houses in Multiple Occupation (HMO) SPD indicates that a maximum concentration HMOs should not exceed 10% of the surrounding residential properties within a 40m radius. From carrying out the 40m radius survey, the up to date records for the Planning Register, Licensing Register, and Council Tax show that the resulting concentration for the cumulative impact of the HMOs would be 20% (2 HMOs out of 10 residential properties).

Although the Council does not have a comprehensive database on the location of all HMOs in the city, these sources provide the Council's best known evidence. Notwithstanding the diverse mix of flatted households within this part of Thornbury Avenue, the assessment has found an overconcentration of HMOs above the 10% threshold and, therefore, would significantly go beyond the tipping point to maintain a sustainable balance and mix of households in the local community.

The change of use from the former authorised 6 person care home with owner accommodation to a C4 HMO and self-contained flat with access from the HMO property is considered to adversely affect the amenity of local residents given the comings and goings of 7 unrelated persons and their visitors with independent lifestyles, and the more intensive use of the property associated with the additional number of occupants living on-site. Whilst the owner may have still resided at the site, the supervision of the care home residents by carers or the owners would have been the major difference between the dynamics of the household and, therefore, the HMO occupants household group no longer has an overall head of household at the property to hold to account the behaviour of residents. The current landlord lives off-site and, therefore, cannot provide the same of management as with the care home.

The loss of the established specialist care home accommodation has not been adequately justified and therefore is contrary to the mixed and balanced communities objective of policy CS16 which seeks to improve and increase the provision of homes for senior citizens and disabled people of all ages by providing a range of housing to help support local services and facilities and to meet the needs of existing and future residents.

As such, the change of use of the former care home to a C4 HMO has cumulatively resulted in an excessive concentration of HMOs within the immediate area and results in an adverse impact on the overall character and amenity of the area surrounding the application site in terms of the mix and balance of households in the local community. Furthermore, due to the change in nature and intensification in occupation arising from the HMO use and self-contained flat, the noise and disturbance from the comings and goings and associated activities of the overall number of unrelated occupants will adversely impact on the amenity of the neighbouring occupiers. In balancing the acceptability of a proposal to convert a building to an HMO against the contribution that such a change of use will make to meeting housing demand, the adverse harm to the character and amenity of an area outweighs the benefit of housing supply.

#### Insufficient parking

The parking demand from this development coupled with the loss of existing off-road parking would adversely harm the amenity of nearby residential occupiers through increased competition of available on-street car parking in the local area.

#### Lack of Section 106 or unilateral undertaking to secure planning obligations

The unauthorised development, as a residential scheme, has been screened (where mitigation measures must now be disregarded) as likely to have a significant effect upon European designated sites due to an increase in recreational disturbance along the coast and in the New Forest. Accordingly, a Habitat Regulations Assessment (HRA) has been undertaken, in accordance with requirements under Regulation 63 of the Conservation of Habitats and Species Regulations 2017. The HRA concludes that, provided the specified mitigation of a Solent Recreation Mitigation Strategy (SRMP) contribution in line with current SDMP fees and a minimum of 5% of any CIL taken directed specifically towards

Suitably Accessible Green Space (SANGS), the development will not adversely affect the integrity of the European designated sites.

In the absence of either a scheme of works or a completed Section 106 legal agreement or unilateral undertaking to support the unauthorised development the application fails to mitigate against its wider direct impact with regards to the additional pressure that further residential development will place upon the Special Protection Areas of the Solent Coastline. Failure to secure mitigation towards the 'Solent Disturbance Mitigation Project' in order to mitigate the adverse impact of the new HMO and flatted accommodation (within 5.6km of the Solent coastline) on internationally protected birds and habitat is contrary to Policy CS22 of the Council's adopted LDF Core Strategy as supported by the Habitats Regulations.

The Council do not consider that planning permission should be given, because planning conditions could not overcome these objections to the development.

## 5 WHAT YOU ARE REQUIRED TO DO

- (i) Cease the use of that part of the Land as a house in multiple occupation (Use Class C4);
- (ii) Cease the use of that part of the Land as a self-contained flat (Use Class C3); and
- (iii) Remove all internal locks on bedroom doors that facilitate the use as a house in multiple occupation and a separate self-contained flat.

## 6 TIME FOR COMPLIANCE

6 months after this Notice takes effect.

## 7 WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 10 September 2021, unless an appeal is made against it beforehand.

Dated: 4 August 2021



Signed ....

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**SERVICE DIRECTOR: LEGAL & BUSINESS OPERATIONS**  
**RICHARD IVORY, Solicitor**  
Southampton & Fareham Legal Services Partnership  
Southampton City Council  
Civic Centre  
Southampton SO14 7LY

## **ANNEX**

### **YOUR RIGHT OF APPEAL**

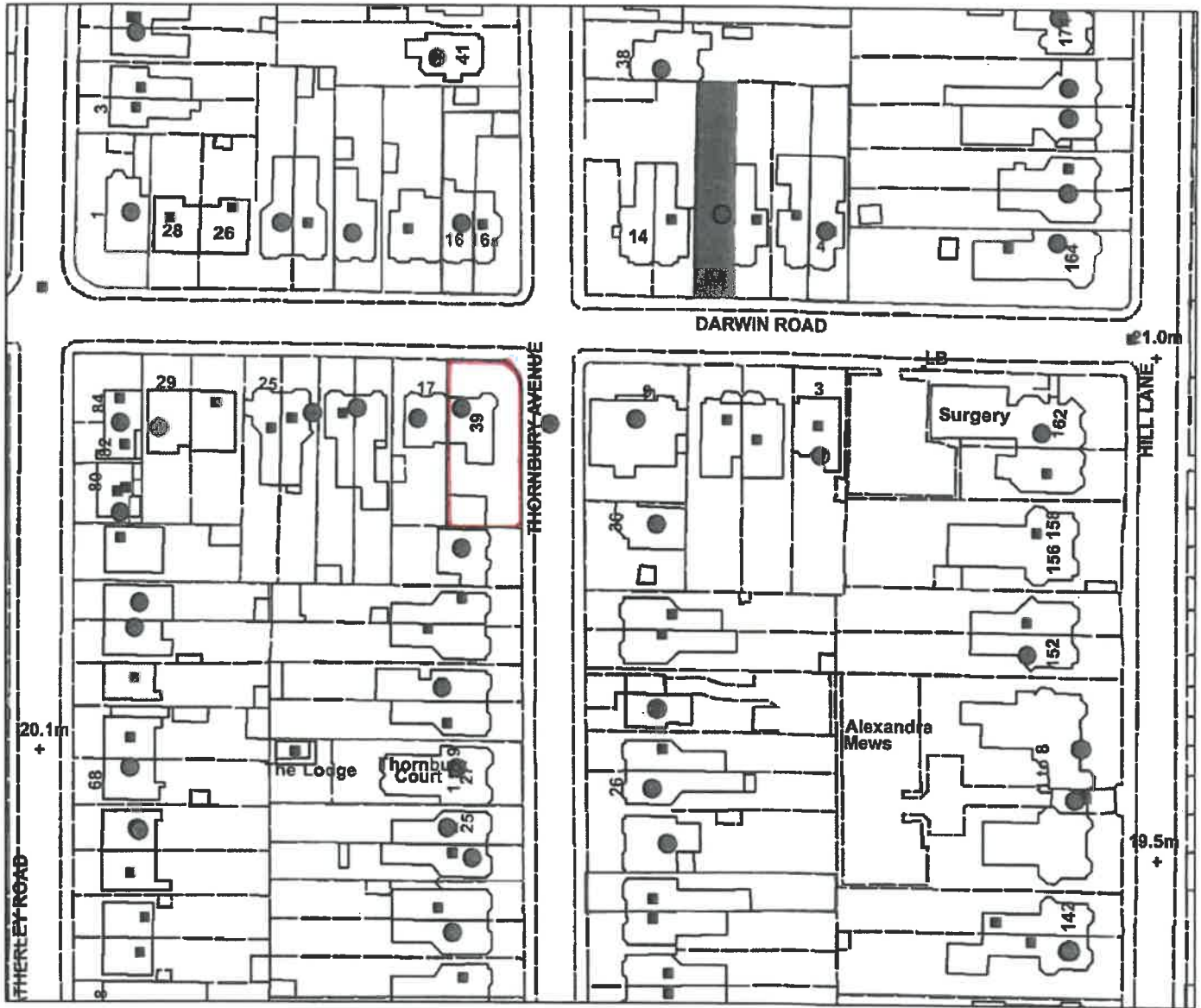
You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Secretary of State before the date specified in paragraph 7 of the notice. The enclosed information sheet from The Planning Inspectorate sets out how to do this. Read it carefully.

### **WHAT HAPPENS IF YOU DO NOT APPEAL**

If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period(s) specified in paragraph 6 of the notice. Failure to comply with an enforcement notice, which has taken effect, can result in prosecution and/or remedial action by the Council.

# 39 Thornbury Avenue, Southampton

## Enforcement Notice



Legend

Organisation	
Department	
Comments	
Date	

**TOWN AND COUNTRY PLANNING ACT 1990  
(as amended by the Planning and  
Compensation Act 1991)**

**ENFORCEMENT NOTICE**

**LAND AT 39 THORNBURY AVENUE  
SOUTHAMPTON, SO15 5BQ**

Customer Support Team  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

Direct Line 0303-444 5000  
Email [enquiries@planninginspectorate.gov.uk](mailto:enquiries@planninginspectorate.gov.uk)

## THIS IS IMPORTANT

If you want to appeal against this enforcement notice you can do it:-

- on-line at the Appeals Casework Portal\_ (<https://acp.planninginspectorate.gov.uk/>); or
- sending us enforcement appeal forms, which can be obtained by contacting us on the details above.

**You MUST make sure that we RECEIVE your appeal BEFORE the effective date on the enforcement notice.**

Please read the appeal guidance documents at <https://www.gov.uk/appeal-enforcement-notice/how-to-appeal>.

In exceptional circumstances you may give written notice of appeal by letter or email. You should include the name and contact details of the appellant(s) and either attach a copy of the Enforcement notice that you wish to appeal or state the following:

- the name of the local planning authority;
- the site address; and
- the effective date of the enforcement notice.

We MUST receive this BEFORE the effective date on the enforcement notice. This should immediately be followed by your completed appeal forms.