

**Planning and Rights of Way Panel 22<sup>nd</sup> June 2021**  
**Planning Application Report of the Head of Planning & Economic Development**

<b>Application address:</b> 12 Mayflower Road, Southampton			
<b>Proposed development:</b> Change of use from a dwelling house (class C3) to a 5-bed house in multiple occupation (HMO, class C4) (Retrospective)			
<b>Application number:</b>	20/01548/FUL	<b>Application type:</b>	FUL
<b>Case officer:</b>	Anna Coombes	<b>Public speaking time:</b>	5 minutes
<b>Last date for determination:</b>	Extension of time: 29.06.2021	<b>Ward:</b>	Millbrook
<b>Reason for Panel Referral:</b>	Five or more letters of objection have been received	<b>Ward Councillors:</b>	Cllr Moulton Cllr G Galton Cllr C Galton
<b>Applicant:</b> Mr Kishan Kumar		<b>Agent:</b> Ms Caroline Nganga	

<b>Recommendation Summary</b>	Conditionally approve
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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 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 – CS13, CS16, CS19 of the of the Local Development Framework Core Strategy Development Plan Document (Amended 2015). Policies – SDP1, SDP5, SDP7, SDP9, SDP16, H4, H7 of the City of Southampton Local Plan Review (Amended 2015) as supported by the relevant guidance set out in the Residential Design Guide SPD (2006), Houses in Multiple Occupation SPD (2016) and Parking Standards SPD (2011).

<b>Appendix attached</b>			
1	Development Plan Policies	2	40m Radius map
3	HMO property checklist	4	Appeal decision 10 Lumsden Avenue

**Recommendation in Full**

## Conditionally approve

### 1. The site and its context

- 1.1 12 Mayflower Road is a two-storey, semi-detached dwelling, which has been in operation as a 5 bedroom House in Multiple Occupation (HMO) without planning permission. The property has 3 bedrooms and a bathroom at first floor and 2 bedrooms, a kitchen, a living/dining room and bathroom at ground floor.
- 1.2 The property has an existing single-storey rear extension, a modest sized rear garden with potential for cycle storage and an access path along the western side boundary. To the front of the dwelling is a paved front garden where the bins are stored.
- 1.3 The site is located on a short cul-de-sac off the western side of Shirley High Street. Shirley Town Centre primary and secondary shopping areas begin at the entrance to Mayflower Road, providing immediate access to a good selection of local amenities. The surrounding area is mainly characterised by suburban two storey semi-detached residential properties, some of which have been converted to flats.
- 1.4 Like the majority of properties along Mayflower Road, the application site has no off-road parking. On-street parking is restricted to residents' parking permits, or a maximum of 1 hour between the hours of 8am to 6pm Monday to Saturday.

### 2. Proposal

- 2.1 This application seeks to regularise the currently unauthorised change of use from a C3 dwellinghouse to a 5 bed HMO (class C4). There are no internal or external structural alterations proposed, simply the way in which the property is occupied.
- 2.2 An application for an HMO licence for this property has been submitted to the Council's HMO Licencing team and is currently under consideration. In terms of the quality of residential living standards for the occupants, the HMO licensing minimum room size standards are complied with as follows:-

Room	Location	Size	Minimum Standard
Bedroom 1	Ground floor front	14.6sqm	Minimum 6.51sqm
Bedroom 2	Ground floor rear	9.5sqm	
Bedroom 3	First floor front	12.4sqm	
Bedroom 4	First floor middle	11.2sqm	
Bedroom 5	First floor rear	11sqm	
Bathroom 1	Ground floor	---	At least 1 shared bathroom for up to 5 persons
Bathroom 2	First floor	---	
Kitchen	Ground floor	11sqm	Minimum total combined kitchen / living area of 11.5sqm for up to 5
Living Room	Ground floor	11.4sqm	

			persons
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### 3. **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) was revised in 2019. Paragraph 213 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan 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 The Council’s Houses in Multiple Occupation Supplementary Planning Document (SPD HMO) indicates:

*“1.1 Houses in Multiple Occupation (HMOs) provide much-needed housing accommodation. However, a large number of HMOs in one area can change the physical character of that residential area and this can lead to conflict with the existing community.*

*1.2 The planning system can assist in achieving a mix of households within the city’s neighbourhoods, meeting different housing needs whilst protecting the interests of other residents, landlords and businesses. This can best be delivered by preventing the development of excessive concentrations of HMOs and thus encouraging a more even distribution across the city.”*

3.4 Policies H4 (Houses in Multiple Occupation) and CS16 (Housing Mix and Type) support the creation of mixed and balanced communities and require an assessment of how the introduction of HMOs affect the character and amenity of the local area. The Council’s Houses in Multiple Occupation Supplementary Planning Document (HMO SPD) sets a maximum HMO concentration threshold of 10% (surveyed over a 40m radius from the front door of the property), in order to avoid over-concentrations of HMOs leading to an imbalance in the mix of households within a local neighbourhood.

3.5 Saved Policy SDP1 (Quality of development) of the Local Plan Review allows development, providing that it does not unacceptably affect the health, safety and amenity of the city and its citizens. Policies SDP7 (Context) and SDP9 (Scale, Massing, and Appearance) allow development which respects the character and appearance of the local area. Policy H7 (The Residential Environment) expects residential development to provide attractive living environments. Policy CS13 (Fundamentals of Design) assesses the development against the principles of good design. These policies are supplemented by the design guidance and standards as set out in the relevant

chapters of the Residential Design Guide SPD. This sets the Council's vision for high quality housing and how it seeks to maintain the character and amenity of the local neighbourhood.

- 3.6 Saved policy SDP5 (Parking) of the Local Plan Review and policy CS19 (Car and Cycle Parking) of the Core Strategy both seek to discourage reliance on cars and encourage alternative, more sustainable modes of transport by setting maximum standards for car parking and minimum standards for secure cycle storage, which are detailed in the Parking Standards SPD.

#### **4. Relevant Planning History**

- 4.1 There are no previous planning applications on record for this property. The Planning Enforcement team were made aware of the unauthorised HMO use and required the applicant to submit this retrospective planning application following an investigation into the current use.

#### **5. 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 erecting a site notice on 29.01.2021. At the time of writing the report **5 representations** have been received from surrounding residents. The following is a summary of the points raised:

- 5.2 ***This is an existing unauthorised HMO use, possibly operating for up to 8 years without permission, or an HMO licence.***

##### **Response**

Whilst a breach has occurred, the applicant has a legal right to apply to regularise this unauthorised use under planning law. Formal enforcement action is held in abeyance whilst the current application is considered, in line with the Council's adopted Enforcement Policy. An application for an HMO licence has been submitted. In previous years, not all HMO properties required a licence, which may have been the case for this property.

- 5.3 ***Alleged drug taking and drug dealing.***

##### **Response**

Any illegal activities undertaken by current occupiers would be beyond the scope of this planning application and should be reported to the police, to be controlled by separate legislation.

- 5.4 ***Possibly more than 5 occupants and their visitors / partners.***

##### **Response**

A condition is recommended to limit the occupation of the property to only 5 persons. Any HMO licence granted would also specify the number of persons that the licence allows. Both a planning condition and an HMO licence can then be enforced by the Council, giving more control over the level of occupancy of the property than there is for the current unauthorised use.

5.5 ***There are already parking issues on Mayflower Road.***

**Response**

The impact of the proposed use on parking availability is discussed in the planning considerations further below.

5.6 ***Noise nuisance and anti-social behaviour from tenants.***

**Response**

The Council's Environmental Health team have enforcement powers available outside of the planning system to enforce against statutory noise nuisance. These issues are discussed in the Planning Considerations further below.

5.7 ***Problems with overflowing bins and rubbish left in front garden and resulting rodent problems.***

**Response**

The Council's Environmental Health team have enforcement powers outside of the planning system to investigate and enforce against issues concerning waste, fly tipping and pest control.

5.8 ***The landlord has neglected the property. Poor management of the property and tenants.***

**Response**

Whilst there are currently issues with the management of this property, if planning permission is granted, this would provide the Council with greater enforcement powers. A planning condition is recommended to limit the number of occupants of the property and a further planning condition could be applied to require the applicant to submit a management plan for the property. If an HMO licence is granted by the Council's licencing team, then this would provide a further route of enforcement over the number of occupiers and the management of the property.

5.9 ***The local area is already overcrowded and there are too many HMOs.***

**Response**

The proposal does not introduce any new dwellings to the road, it changes the use of an existing dwelling. There are no other HMO properties recorded within a 40m radius of the application site.

5.10 **Consultation Responses**

<b>Consultee</b>	<b>Comments</b>
Environmental Health	No objection
Highways Development Management	No objection. The use is relatively similar between C3 / C4 use. Request 1 cycle space per bedroom.

	The number of permits the property would be eligible for would be the same whether it was a C3 or C4 HMO use.
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## **6.0 Planning Consideration Key Issues**

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

- The principle of development;
- Design and effect on character;
- Residential amenity;
- Parking highways and transport

### Principle of Development

6.2 The permitted development right to change the use of a property from a C3 single dwelling to a C4 small HMO for up to 6 persons was removed by Southampton City Council on 23<sup>rd</sup> March 2012 when the Council enacted a citywide Article 4 Direction to control the problems associated with high concentrations of HMOs in local communities. Any new HMO uses that have begun since this date require planning permission.

6.3 Policy H4 acknowledges there is a need to maintain the supply of housing whilst balancing this against maintaining a sustainable mix of households within the community. A condition can be applied to allow a flexible use that can flip between a C3 single dwelling and a C4 HMO use, depending on market demands, without requiring planning permission for a period of 10 years. As such, the proposal will continue to provide family accommodation if the market demands this. The proposal would not be contrary to policy CS16 given that the property can be readily converted back into use as a family dwelling with no physical changes necessary.

6.4 Given the above, the principle of development to convert the property into a C4 HMO can be supported subject to an assessment of the planning merits in relation to the relevant policies and guidance.

### Design and effect on character

6.5 The internal works to facilitate the change of use do not visually impact on the appearance of the street scene.

6.6 The threshold test set out in section 1.1 of the Council's HMO SPD indicates that the maximum concentration of HMOs should not exceed 10% of the surrounding residential properties within a 40m radius. As this proposed HMO use is the first in the road, the HMO concentration as a result of this application would be only **5% (1 HMO out of 22 eligible residential properties)** which is

well within the 10% maximum limit for the 40m radius survey area. This survey has reviewed the Electoral Register, Planning Register, Licensing Register, and Council Tax records available. Although the Council does not have a complete database on the location of all HMOs in the city, these sources provide the Council's best-known evidence. A copy of the 40m radius map is attached as **Appendix 2** and a list of the properties considered in the calculation is attached as **Appendix 3**.

- 6.7 The strategy of the Council is to support balanced communities by using the 10% maximum threshold to maintain a sustainable mix of residential properties. The character of the local area is predominantly family housing within this suburban street. This would be the first HMO within the 40m radius area, so will retain a strong mix of 95% family homes out of the residential properties in the local neighbourhood.
- 6.8 There is an ongoing need for shared HMO housing in the city. In allowing a recent appeal at 10 Lumsden Avenue (attached as **Appendix 4**), the Planning Inspector concluded 'it seems on the balance of probabilities that the conversion would have little impact on the prevailing character hereabouts' (paragraph 14 refers), and 'no evidence that one conversion would have a significant or detrimental effect on this character' (paragraph 12 refers).
- 6.9 Given the above, and considering the generally busy, urban character of the local area, being just off Shirley High Street, right at the edge of Shirley Town Centre primary shopping area, the proposal for a 5 bed C4 small HMO use is not considered to materially change the character of the area.

#### Residential amenity

- 6.10 There are no new side-facing windows proposed, nor any external alterations to the existing building, so the proposal does not raise concerns for creating overbearing, overshadowing or overlooking impacts for neighbouring residents.
- 6.11 It is noted that there are objections from neighbouring residents regarding the existing HMO use, and in particular the activities of the current occupiers and the way the property is managed by the current landlord. Whilst this planning application can assess the general impact of a proposed HMO use, including the impact on residential amenity, the specific current issues of noise, waste, alleged drug use and safe management of the property are outside the scope of this application, as they are enforced by other agencies, such as Licencing and the Police.
- 6.12 In general, whilst there are concerns specifically for the current tenants and the way the property is managed by the current landlord, the comings and goings generally associated with a 5 bedroom C4 small HMO use are not considered to be significantly harmful to neighbouring amenity, given the busy, urban character of this local area at the edge of Shirley Town Centre primary shopping area. The impact of the proposed HMO use can also be controlled further via planning conditions, such as restricting the number of occupiers.

- 6.13 The nature and intensity of the proposed HMO use is not considered to significantly harm the residential amenities of the neighbouring occupiers. In allowing the above-mentioned appeal at 10 Lumsden Avenue (**Appendix 4**), the Planning Inspector concluded overall that the introduction of a HMO would not adversely affect the amenity of the neighbouring residents (paragraph 14 refers). There are further safeguards because a HMO licence would be required (Shirley ward is covered by the second additional licensing scheme) and, therefore, the management and standards of the property would be monitored by other teams in the Council. The Council has powers to serve a noise abatement notice where it considers that any noise nuisance caused by the residents is deemed as statutory noise nuisance. This in itself is not however a reason to withhold planning permission.
- 6.14 As shown in the table in paragraph 2.2, the proposal provides a good quality living environment for current and future occupiers of the property. All habitable rooms have good access to light and outlook. There are communal spaces available with a good-sized Kitchen and separate Living Room, which exceed minimum standards. There is a modest sized garden with space for sitting out, hanging washing, and for secure cycle storage.

#### Parking highways and transport

- 6.15 The Council's parking standards within the HMO SPD limit parking to a maximum of 2 parking spaces for a 5 bedroom HMO in this high accessibility location. This is the same as would be required for a C3 single dwelling with 4 or more bedrooms. Parking can be provided by way of either on-street or off-street parking spaces. Both policies SDP5 and CS19 seek to encourage residents to use alternative, more sustainable modes of transport and discourage reliance on cars.
- 6.16 No parking is available on the application site, but this is the same situation for the majority of properties along Mayflower Road, with only 2 properties benefitting from off-road parking spaces. Whilst no parking survey has been submitted, we note that there is existing demand for on-street parking. Given the highly sustainable location in terms of accessibility to public transport and local shops and amenities in Shirley town centre, however, the potential impact from additional parking demand on nearby streets would be adequately controlled by existing parking controls on the majority of local streets within a 200m radius in this part of Shirley. The property would be entitled to the same number of parking permits regardless of whether it is in use as a C3 dwelling or C4 HMO.
- 6.17 The Highways Development Management officer has no objections to the proposal and has confirmed that a C4 HMO use would be entitled to 2 residents' parking permits, which is the same as if it were a C3 single dwelling. This is material to this recommendation.
- 6.18 There is space to accommodate secure and covered cycle storage within the rear garden, of sufficient size to provide 5 cycles spaces, 1 per bedroom,



meeting the design guidance given in the Parking Standards SPD. Further details of the size, layout and appearance of this structure can be secured by condition.

- 6.19 Bin storage is proposed in the same position as existing, within the front paved garden, which is the same situation for the majority of properties along Mayflower Road. Details of a covered bin storage structure can be secured via a condition.

## **7. Summary**

- 7.1 In summary, the retention of the existing HMO use, with the conditions proposed, is not considered to significantly harm the character and amenity of the area, or highway safety. The comings and goings associated with an HMO use, including traffic and parking demand generated, are not considered to be detrimental to the amenity and safety of the residents living in the area. Furthermore, retention of the existing HMO use would not imbalance the mix of households locally, as 95% of properties within the 40m radius would remain as family homes. An HMO use would contribute positively towards the availability of smaller lower cost and flexible accommodation to benefit lower income and transient households within the local community.

## **8. Conclusion**

- 8.1 It is recommended that planning permission be granted subject to the conditions set out below.

### **Local Government (Access to Information) Act 1985**

#### **Documents used in the preparation of this report Background Papers**

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

#### **AC for 22.06.2021 PROW Panel**

#### **PLANNING CONDITIONS to include:**

##### **01. Retention of communal spaces (Performance)**

The rooms labelled Kitchen and Living Room shown on the plans hereby approved shall be retained for communal purposes only and shall be made available to all occupiers at all times for the duration of the approved C4 HMO use.

Reason: To ensure that suitable communal facilities are provided for the residents.

##### **02. C3/C4 dual use (Performance)**

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 County 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.*

**03. Cycle storage facilities (Pre-Occupation)**

Within 2 months of the date of this decision notice, secure and covered storage for 5 bicycles shall be submitted to and approved in writing by the Local Planning Authority. The storage shall be provided in accordance with the agreed details within 2 months of approval and thereafter retained as approved.

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

**04. Refuse & Recycling (Pre-Occupation)**

Within 2 months of the date of the decision notice, details of an enclosure for the storage of refuse and recycling shall be submitted to and approved in writing by the Local Planning Authority. The storage shall be provided in accordance with the agreed details within 1 month of approval and thereafter retained as approved. Unless otherwise agreed by the Local Planning Authority, except for collection days only, no refuse shall be stored outside the storage 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.

**05. 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.

**POLICY CONTEXT**

Core Strategy – (as amended 2015)

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

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

SDP1	Quality of Development
SDP5	Parking
SDP7	Urban Design Context
SDP9	Scale, Massing & Appearance
H4	Houses in Multiple Occupation
H7	The Residential Environment

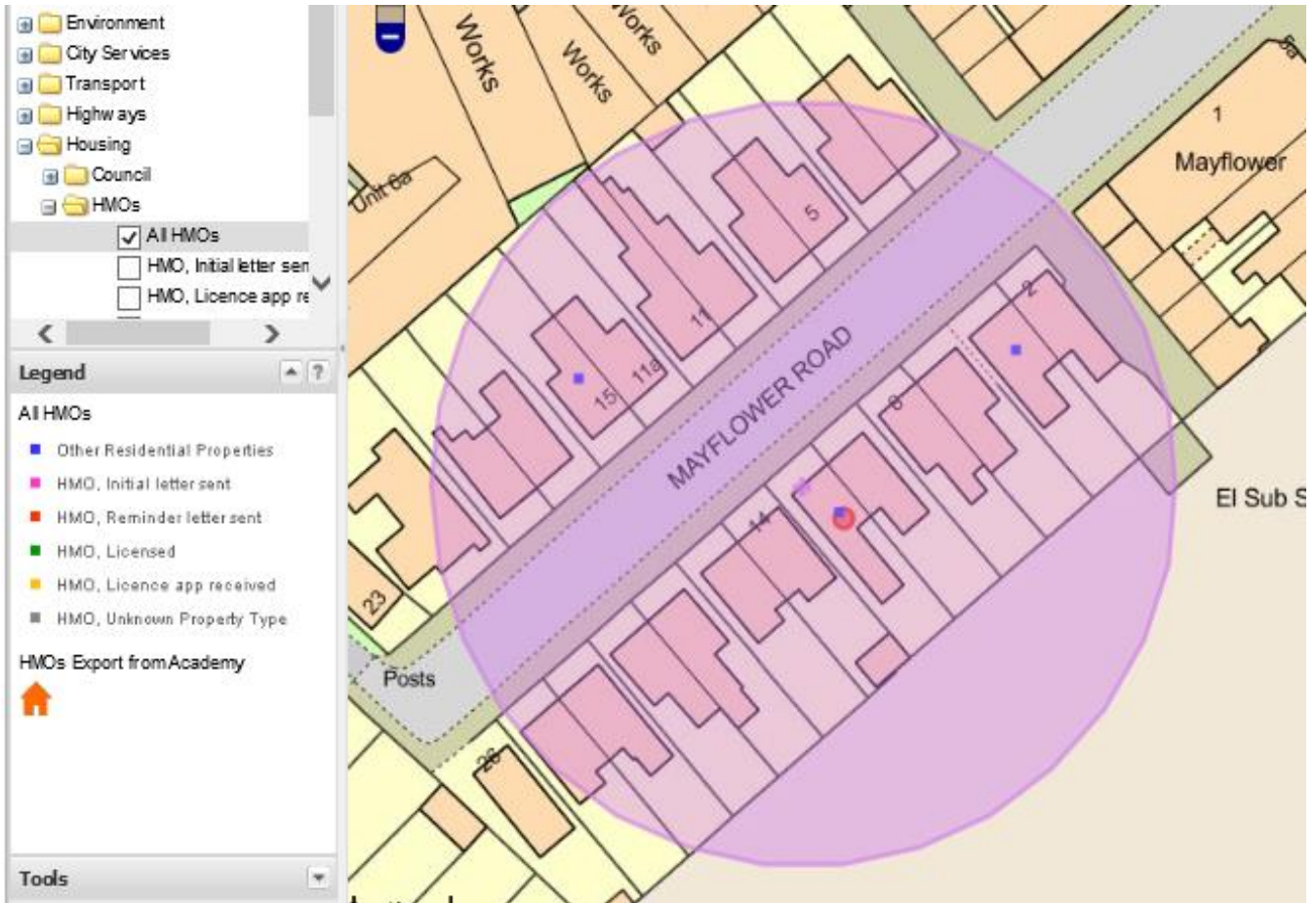
Supplementary Planning Guidance

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

Other Relevant Guidance

The National Planning Policy Framework (Revised 2019)

40m Radius Map



## HMO property checklist

		Property type	Planning history / notes	C3 / C4	Counted at Step 2?	Council Tax	HMO licencing
Mayflower Road (Evens)	2	Flats	2x 2 bed flats - 882393/W	C3	No	--	---
	4	Semi-detached		C3	Yes	--	Single dwelling
	6	Semi-detached		C3	Yes	--	---
	8	Semi-detached		C3	Yes	--	---
	10	Semi-detached	3 bed - (Rightmove)	C3	Yes	--	---
	12	Semi-detached	3 bed - (Rightmove) - <b>Application site</b>	C3	Yes	--	Single dwelling
	14	Semi-detached	3 bed - (Rightmove)	C3	Yes	--	---
	16	Semi-detached		C3	Yes	--	---
	18	Semi-detached		C3	Yes	--	---
	20	Semi-detached		C3	Yes	--	---
	22	Semi-detached	3 bed - (Rightmove)	C3	Yes	--	---
	24	Semi-detached	3 bed - (Rightmove)	C3	Yes	--	---
Mayflower Road (Odds)	1	Semi-detached		C3	Yes	--	---
	3	Semi-detached	3 bed - (Rightmove)	C3	Yes	--	---
	5	Semi-detached		C3	Yes	--	---
	7	Semi-detached		C3	Yes	--	---
	9	Semi-detached		C3	Yes	--	---
	11	Semi-detached	3 bed - (Rightmove)	C3	Yes	--	---
	11a	Semi-detached		C3	Yes	--	---
	15	Semi-detached	3 bed - (Rightmove)	C3	Yes	--	Single dwelling
	17	Semi-detached	3 bed - (Rightmove)	C3	Yes	--	---
	19	Semi-detached	3 bed - (Rightmove)	C3	Yes	--	---
	21	Detached		C3	Yes	--	---
				<b>0</b>	<b>22</b>		
Existing:	0 / 22 properties	<b>0%</b> existing HMOs		0.00%			
Proposed:	1 / 22 properties	<b>5%</b> proposed HMOs		4.50%			



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## Appeal Decision

Site visit made on 2 June 2015

**by Sukie Tamplin Dip TP Pg Dip Arch Cons IHBC MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18/06/2015

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**Appeal Ref: APP/D1780/W/15/3005204**  
**10 Lumsden Avenue, Southampton SO15 5EL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Dr Helen Smith against the decision of Southampton City Council.
  - The application Ref 14/01238/FUL/34228, dated 23 July 2014, was refused by notice dated 25 September 2014.
  - The development proposed is conversion of a 5 bedroom, three storey, semi-detached house into a house of multiple occupancy for up to 5 people (C3 to C4). The property is currently occupied by our daughter, a student at the University of Southampton. We are seeking the change of use to enable her to share it with other students, who will form a single joint tenancy.
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### Decision

1. The appeal is allowed and planning permission is granted for change of use from a C3 dwelling house to a 5-bed house in multiple occupation (HMO, class C4) at 10 Lumsden Avenue, Southampton SO15 5EL in accordance with the terms of the application, Ref 14/01238/FUL/34228, dated 23 July 2014, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: (Location plan, ground floor plan, first floor plan, third (sic) floor plan (attic bedrooms)).
  - 3) The C4 HMO use hereby approved shall not be occupied by more than 5 residents at any one time. Those rooms identified on the ground floor plan as 'Sitting Room', 'Dining Area' and 'Kitchen' shall be made available for all residents on a communal basis and not used as additional sleeping accommodation to serve the HMO use.
  - 4) Prior to the first occupation of the site as a C4 dwelling, details of cycle storage facilities to conform to the Local Planning Authority standard of one space per resident shall be provided and agreed in writing by the Local Planning Authority. Such parking and storage shall thereafter be permanently maintained for that purpose. For the avoidance of doubt this means that 5 secure, lockable cycle parking spaces shall be provided on site.
  - 5) Before the use commences details and a plan of the facilities to be provided for the storage, removal and recycling of refuse from the

premises shall be submitted to the Local Planning Authority and approved in writing. Such facilities as approved shall provide for a level approach and be permanently maintained and retained for that purpose. No refuse shall be stored on the public footpath or highway, except on collection days only, and shall be stored in accordance with the details to be approved.

### **Procedural matters**

2. The proposal is described on the application form as set out in the preamble to the Decision. However it is described on the appeal form as "change of use from a C3 dwelling house to a 5-bed house in multiple occupation (HMO, class C4)". This is also the description on the Council's decision notice. Because planning permission goes with the land/building and contractual tenancy details are not relevant to the matters before me, I shall use this latter description in my determination of the appeal.
3. Southampton City Council have made a City-wide Article 4 (1) Direction requiring changes of use from Class C3 (dwelling houses) to Class C4 (Houses in Multiple Occupation (HMO)) to obtain planning permission. Any such proposals are assessed in accordance with the criteria in the *Houses in Multiple Occupation Supplementary Planning Document 2012 (SPD)*.
4. I have taken note of the *Southampton City Core Strategy Partial Review (CSPR)*, the *City Centre Action Plan (CCAP)* and the *Local Plan Review (LPR)* which were adopted in March 2015. However the amendments therein do not appear to supersede or alter the policies or any part of policies relevant to this appeal.

### **Main issue**

5. The main issue in this appeal is the effect of the proposed change of use to an HMO on the character and amenity of the area, including parking demand, by reason of the level of use of the property.

### **Reasons**

6. Lumsden Avenue is a broad street of spacious houses located to the north of Shirley Road, a busy shopping street that links the city centre with the town centre of Shirley. Most of the houses are semi-detached and set back behind forecourts or front gardens. Many, if not most of the houses have off-street parking, and the availability of on-street parking spaces is relatively limited. The street appears to be characterised by family housing but, because of its proximity to Shirley Road, it also appears to be used for commuter and shopper parking and the associated activity adds to its vibrancy.
7. Southampton is said to have a very high demand for HMO's to meet the needs of a large population of single people, including students, those on lower incomes, and young people. The Council's objectives appear to be to seek to ensure that these needs are met without unbalancing the housing mix. Thus, in out-of-city centres locations such as Shirley (Freemantle ward) the strategy is to ensure that a threshold of not more than 20% HMO's in any 40m radius is not breached. The Council acknowledge that the information about the numbers of HMOs is inconclusive but official records suggest that there is only one in the area relevant to this appeal. I see no reason to disagree that there is probably a very low number of HMOs in the surrounding area because there

were no obvious signs that the housing is intensively occupied. Accordingly permission would result in the percentage of HMOs rising to about 10% in the relevant 40m radius around the appeal site, well below the threshold of 20%.

8. But LPR Saved Policy H4 says that permission for conversion to an HMO will only be granted where a) it would not be detrimental to the amenities of nearby residents; b) it would not be detrimental to the overall character and amenity of the area and c) adequate amenity space is provided. In terms of the latter, there is no dispute that adequate amenity space is provided.

*a) Parking*

9. In respect of the criterion a) it is suggested that there is parking stress and that the HMO use would result in significant extra traffic generation. I agree that there is a possibility that 5 separate occupiers could each own a car and that this is likely to be greater than the car ownership associated with most large family homes. Only three cars could be accommodated within the site so there could be some additional parking demand. Nevertheless the Highway Authority does not object to the application though requested a parking survey, but that submitted by the appellant is disputed by residents. At the time of my visit there was some on-street availability, although the number of possible parking space has been reduced because residents park on their forecourts with and without a dropped kerb. It is unclear if the appellant's and the residents' parking assessments include both authorised and unauthorised off-street parking and in such circumstances I find the parking information inconclusive.
10. On the balance of probabilities it seems to me unlikely that the HMO would generate a need for 5 parking spaces because the site is close to a very high frequency bus route and within easy walking distance of a wide variety of shops and entertainment facilities. Moreover HMOs tend to be occupied by residents on lower incomes who would be less likely to own cars, particularly in this highly accessible location. Accordingly, I consider the proposal would be unlikely to cause parking stress in Lumsden Avenue and this weighs in favour of permission.

*b) Character and amenity*

11. In terms of criterion b), the concerns appear to be that the life style of future occupants and the greater intensity of occupation would lead to a reduction in the quality of the area. This tension is recognised by the Council in the SPD, but this also says that environmental problems, including poor refuse management, noise and anti social behaviour, high property turnover, neglected gardens and a lack of maintenance, are issues that tend to be exacerbated where there is a high concentration of HMOs. That would not be the case here.
12. I have no reason to doubt residents who say that the road is primarily occupied by families and this is demonstrated by the community spirit and events such as the street party. But there is no evidence that one conversion would have a significant or detrimental effect on this character. The area would continue to be mainly family housing and it is unlikely that anti-social activity would be tolerated. Moreover, although the housing in Lumsden Avenue and within the 40m radius appears to be generally in good or very good physical condition,



some of these environmental 'issues' are already part of the character of the housing hereabouts and are not exclusive to or as a result of HMO use.

13. I agree that the life style of residents of HMOs may be different to the daily pattern typical of 'family housing' but this must be balanced against the need for lower cost and flexible accommodation. Similarly, occupants of HMOs are likely to be transient, but this is probably also true of occupiers of other tenures such as the short-term letting of large houses such as No 10.
14. The strategy of the Council is to support balanced communities and a sustainable mix of residential accommodation. In this case, if permission were to be granted, up to 90% of the housing within the 40m radius would remain as family housing and it seems on the balance of probabilities that the conversion would have little impact on the prevailing character hereabouts. Moreover, because the premises are 3 storey there are further safeguards because a HMO licence would be mandatory and thus the management and standards of the property would be monitored by the Council. Accordingly, I conclude that permission for use as an HMO in these circumstances is not likely to cause serious harm to the amenity of residents in Lumsden Avenue and this too weighs in favour of permission.

*Other considerations and findings on the main issue*

15. A number of appeal decisions are relied upon to support the refusal but I have scant details of the circumstances and from what I have seen, the locations are not comparable. From my reading of the appeal decisions, most if not all appear to be concerned with proposals in suburban (or outer suburban) locations in Southampton and thus the character would be different. Neither does it appear that those appeals relate to 3 storey buildings and thus they would not be subject to mandatory licensing. Whilst Lumsden Avenue is very pleasant it is not tranquil as is the case with some of the cases brought to my attention. Moreover it is very accessible and well served by public transport, so that there is less need for car use. Accordingly I give only limited weight to these other decisions.
16. I understand the concerns of local residents but there is a need to ensure that communities are balanced and that the housing needs of the city are met. Moreover on the balance of probabilities it seems to me unlikely that the future occupants would undermine the character and amenity of this housing area. Accordingly I find that the proposed conversion of the property to an HMO would not result in unacceptable or adverse effects on the character and appearance of the area. Hence it would be in accordance with the strategic aims of CSPR Policy CS 16 which supports meeting housing needs, sustainable mixed communities and balancing the contribution of HMOs against potential harm.
17. Similarly the proposals would meet the requirements of LPR Policies SDP 1 and H4 and the SPD which all seek to ensure that providing for lower cost and flexible housing does not harm the amenity of residential areas and occupiers. In any event the C4 use could revert without planning permission to a C3 dwelling house and thus permission would not prevent this use in the future. The National Planning Policy Framework (the Framework) also says that planning should provide for the identified housing needs in their area.
18. Consequently my findings on the main issue weigh in favour of permission.

### **Conclusion and conditions**

19. For the reasons I have given the appeal is allowed subject to conditions. In addition to the standard commencement condition it is necessary, for the avoidance of doubt, to list the approved plans. Conditions are also necessary to ensure that secure cycle storage is provided; this is in the interests of encouraging alternative forms of transport and reducing car use. Finally, in order to secure a high standard of amenity, controls are necessary to ensure that the number of occupants is capped and that there is provision for refuse storage.
20. But I do not agree that a condition which allows the 'flipping of use 'between C4 and C3 is necessary. The GPDO<sup>1</sup> grants rights, which do not appear to have been altered by the Art 4 (1) Direction permitting a C4 HMO use to change to a C3 single family dwelling. Moreover permission has been granted because the circumstances that now prevail in Lumsden Road are such that HMOs form a small proportion of the housing stock in the relevant area. That situation could change and thus, in the event that the property reverts to a C3 use, the circumstances should be re-evaluated if a further period of C4 use is sought.

*Sukie Tamplin*

INSPECTOR

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<sup>1</sup> Town and Country Planning (General Permitted Development)(England) Order 2015 Part 3, class L