

Planning, Transport & Sustainability Division
Planning and Rights of Way Panel 28 May 2013
Planning Application Report of the Planning and Development Manager

Application address: 7 Blenheim Gardens SO17 3RN			
Proposed development: Erection Of Single Storey Side And Rear Extensions			
Application number	13/00385/FUL	Application type	FUL
Case officer	Stuart Brooks	Public speaking time	5 minutes
Last date for determination:	13.05.2013	Ward	Portswood
Reason for Panel Referral:	Request by Ward Member and five or more letters of objection have been received	Ward Councillors	Cllr Vinson Cllr Claisse Cllr Norris

Applicant: Mrs Amol Bains	Agent: Brian C Banyard
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Recommendation Summary	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. The impact of the development, in terms of design and neighbouring amenity, highway safety and parking is considered to be acceptable. It is considered that the occupancy of the property by two additional persons within class C4 will not materially affect the character of the local area in terms of the balance of households in the local community, and will not adversely affect the amenity of local residents by reason of additional activity, noise or other impact. 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.

Policies - SDP1, SDP7, SDP9, H4 of the City of Southampton Local Plan Review (March 2006) and CS13, CS16 of the Local Development Framework Core Strategy Development Plan Document (January 2010) a supported by the Houses in Multiple Occupation Supplementary Planning Document (March 2012).

Appendix attached			
1	Development Plan Policies	2	Appeal decision – 5 Crofton Close
3	Appeal decision – 6 Denbigh Gardens	4	Appeal decision – 13 Grosvenor Road
5	Appeal decision – 14 Spring Crescent	6	Appeal decision – 53 Shaftesbury Avenue
7	Appeal decision – 1 Blenheim Gardens	8	Appeal decision – 30 Glen Eyre Drive
9	Appeal decision – 5 Crofton Close		

Recommendation in Full

Conditionally approve

1.0 The site and its context

- 1.1 The application site is located on the south side of Blenheim Gardens to the east of Portswood Road, within Portswood ward. This is mainly a residential street comprised of semi detached dwellings, with various examples of side and rear extensions at single and two storey level.
- 1.2 The site contains a 2 storey semi-detached dwelling, with side access for parking and modest sized rear garden. The property is established as a small HMO (class C4) with 4 occupants.
- 1.3 The neighbouring property 5 Blenheim Gardens is applying for an identical application (13/00384/FUL), where the single storey rear extension will be built jointly.

2.0 Proposal

- 2.1 It is proposed to erect a single storey side and rear extension to an existing C4 HMO, to provide a total of 6 bedrooms, 2 bathrooms, kitchen, and lounge.

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 (March 2006) and the City of Southampton Core Strategy (January 2010). 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 replaces the previous set of national planning policy guidance notes and statements. The Council has reviewed the Core Strategy 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 Following the Article 4 direction coming into affect on March 23rd 2012, the conversion of a family house into a small HMO for up to 6 people requires planning permission. The planning application will be assessed against policy H4 and CS16 in terms of balancing the need for multiple occupancy housing against the impact on the amenity and character of the local area.
- 3.4 The Houses in Multiple Occupation SPD was adopted in March 2012, which provides supplementary planning guidance for policy H4 and policy CS16 in terms of assessing the impact of HMOs on the character and amenity, mix and balance of households of the local area. The SPD sets a maximum threshold of 10% for the total number of HMOs in the ward of Portswood. It is important to be aware that as the property is already being occupied legitimately as a C4 HMO and was established as a small HMO before 23rd March 2012, the threshold does not apply in this case. There will be no increase in the concentration of HMOs within the

assessment area (section 6.7 of the SPD refers).

4.0 Relevant Planning History

4.1 There is no relevant planning history.

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 also undertaken which included notifying adjoining and nearby landowners. At the time of writing the report **8** objections have been received from surrounding residents and an objection from a local Ward Cllr, where the concerns raised have been set out below:

5.2 Comment

The increase of number of bedrooms to 6 will take the dwelling out of C4 HMO class.

Response

The C4 use allows upto 6 persons. The extended property will occupy upto 6 persons with 6 bedrooms and therefore remain within as C4 use. The proposed floor layout shows a lounge, dining room, and kitchen, which will be retained as shown by condition to ensure that there is sufficient communal space for residents.

5.3 Comment

Be out of character as the 10% HMO threshold has been exceeded. There is already a high concentration of HMOs, and has led to an unbalancing of the mix of family households.

Response

This is addressed in section 6.3 of the report.

5.4 Comment

Overdevelopment and intensification of use. Will cause harm due to increased problems of noise, refuse, litter, and related problems associated with the lifestyles of unrelated tenants. In particular, the anti social behaviour associated with students.

Response

This is addressed in section 6.3 of the report.

5.5 Comment

The front garden will be concreted over.

Response

This is addressed in section 6.3 of the report.

5.6 Comment

There would be insufficient parking, and there is already insufficient parking for existing residents.

Response

The Highway Officer has raised no objection, as there is still space for on site parking in front of the extension which is currently used.

5.7 Comment

Previous appeal decisions in the local area held that an increase in number of occupiers would create material harm in terms of character and amenity, and parking, including 6 Denbigh Gardens (ref no. 2182572), 5 Crofton Close (ref no. 2066223), 5 Crofton Close (ref no. 2034863), 1 Blenheim Gardens (ref no. 2156569), 14 Spring Crescent (ref no. 2176620), 13 Grosvenor Road (ref no. 2167641), 30 Glen Eyre Drive (ref no. 2185123), 53 Shaftesbury Avenue (ref no. 2177575) (see attached to **Appendix 2-9**).

Response

The cases cited are materially different in circumstances in terms of scale and nature of use and, therefore, do not set a material precedent to warrant refusal of this application. Section 6.5 addresses the parking issues.

The appeal decisions cited at 1 Blenheim Gardens (8 occupants) and 13 Grosvenor Road refer to the harm caused by change of use to a large HMO and, therefore, these cases are materially different in nature to this application. Similarly, the appeal decisions at 6 Denbigh Gardens and 30 Glen Eyre Road refer to the harm caused by a change of use from C3 family dwelling to a C4 HMO.

The appeal decision at 53 Shaftesbury Avenue refers to subdividing a large HMO into two small HMOs, which is materially different to the circumstances in this application, as an additional HMO was being created. Similarly, the appeal decision at 14 Spring Crescent considers the impacts from extending a large dwelling and subdividing it into 2x5 bed HMOs.

The appeal decision at 5 Crofton Close refers to the conversion of a garage into an additional bedroom, where the property was occupied as 7 students living as a family unit (class C3 use), which is equivalent to a large HMO unlike the application being considered.

5.8 Comment

There will be insufficient amenity space remaining.

Response

The area of remaining private amenity space will be approximately 150 square metres with a length of 17 metres. This exceeds the minimum standards in the Council's Residential Design Guide for a detached dwelling.

5.9 **SCC Highways** – No objection.

5.10 **SCC Environmental Health Housing** – No objection.

6.0 Planning Consideration Key Issues

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

- Principle of development;
- Impact on the character and amenity of the surrounding area;
- Impact on amenity of neighbouring occupiers;
- Impact on highway safety;
- Standard of living conditions for future residents.

6.2 Principle of Development

6.2.1 The property has been occupied as a small HMO (class C4) under permitted development rights prior to 23rd March 2012. To demonstrate that the property was occupied on 23rd March 2012 (effective date of Article 4 direction), the applicant has provided a 12 month signed tenancy agreement for 3 tenants from 16th March 2012 to 1st July 2012, and 4 tenants 1st July 2012 to 30th June 2013.

6.2.2 The 10% threshold applicable to this site which falls within the Portswood Ward does not apply, as the HMO is already established as a small HMO on 23rd March 2012 and there will be no increase in the concentration of HMOs (section 6.7 refers).

6.2.3 An additional occupant will not result in a material change of use of the property, which will remain as a small HMO. Section 6.11 of the HMO SPD states that in these circumstances only the physical impact of the extension will be assessed.

6.3 Impact on the character and amenity of the surrounding area

6.3.1 No survey of existing HMOs in the surrounding area has been carried as the threshold limit does not apply. Within the class C4 HMO upto 6 unrelated occupants can live in a property without a material change of use occurring which requires planning permission and, therefore, the Uses Classes Order classifies the difference between 3 to 6 occupants being no different in terms of impact on amenity and character.

6.3.2 There will be six bedrooms to allow 2 more occupants. The ground floor communal spaces will be retained by condition to provide an acceptable residential environment. It is considered that the noise and activities associated with the intensification of use of 2 additional occupants, which will remain within class C4, will not significantly be different to the existing occupation.

6.3.3 It is noted that the occupants are likely to be students, however, a HMO can be occupied by different groups other than students and, therefore, the planning assessment should not single out the behaviour or lifestyles of students. It is noted that complaints have been investigated by the Council about the behaviour of students in the local area, and this will be enforced under Environmental Health powers.

6.3.4 As the property is already established as a HMO, the existing concentration of HMOs and mix of households (permanent and transient) in the local community will not change, as well as not adding to the overall supply of HMOs.

- 6.3.5 The proposed extensions consist of a modest single storey extension which is set back 1m, and a 4m deep single storey rear extension to infill the existing recess. It is considered that the scale and massing of the proposed extension will be in keeping with the appearance and character of the dwelling, as it will appear subservient in size, and the main part of the extension visible from the street will be the single storey side element, which is well set back from the front wall of the original dwelling.
- 6.3.6 The visual gap between no. 9 will be maintained as the side extension is single storey in scale. Permitted development rights will be removed to prevent the front wall being removed and the front garden being hardsurfaced, to protect the character of the local area.
- 6.4 Impact on amenity of neighbouring occupiers
- 6.4.1 The neighbouring property 5 Blenheim Gardens is applying for an identical application (13/00385/FUL), where a condition will be applied to require both ground floor rear extensions to be built jointly. This will ensure that there is no harm to the outlook or light of either property.
- 6.4.2 The proposed ground floor side extension will extend up to the common boundary of 9 Blenheim Gardens with an eaves and ridge height of 2.5 and 3.4m. There is a kitchen window and other obscure glazed windows on the adjacent side elevation. Given the height of the side extension, it is considered that there will be no adverse impact on the light and outlook of the neighbouring occupiers.
- 6.5 Impact on highway safety
- 6.5.1 The site lies within a residents parking zone with limited number of permits allocated per address. As this development does not affect the number of addresses on site, the level of permits allowed for on street parking is unchanged. The Highway Officer has raised no objection, as effectively there will be no loss of off street parking with the position of the existing gate, and there is still space for on site parking in front of the extension which is currently used. Therefore, it is considered that there will be no adverse impact on highway safety.
- 6.5.2 In relation to the appeal decisions cited in paragraph 5.7 of the report, although concerns have been raised with regards to additional pressure on on-street parking, each application should be assessed on its own individual merits. The cases cited are materially different in circumstances in terms of scale and nature of use and, therefore, do not set a precedent to warrant refusal of this application.
- 6.5.3 In particular, the Inspector raised a concern about the potential for parking pressure at 1 Blenheim Gardens due to an increase of 6 to 8 occupants (paragraph 10 refers) and, therefore, is materially different to this application. Similarly, the concern about parking pressure at 13 Grosvenor Road is resulting from 2 large HMOs (7 and 8 persons) (paragraph 17 refers).
- 6.5.4 Crofton Close consists of a modern housing development with limited on street parking due to the layout of the street and relies more heavily on off street parking, which is materially different to this application in terms of the street layout and off street parking availability of Blenheim Gardens.

6.5.5 At 53 Shaftesbury Avenue, the Inspector raised concerns that just 2 off street parking spaces will be provided for the two HMOs proposed (paragraph 6 refers), however, this is materially different to this application.

6.5.6 The Inspector raised no concerns with regards to parking pressure at 6 Denbigh Gardens (paragraph 10 refers) for a change of use from C3 dwelling to C4 HMO. Where 3 off street spaces and 2 parking permits were available and, therefore, met the Council's maximum parking standards (3 spaces).

6.6 Standard of living conditions for future residents

6.6.1 The Council's Environmental Health Housing team have raised no objection to the standard of accommodation. It is considered that the proposed layout of accommodation will provide an acceptable residential environment in terms of access to outlook, light and privacy. The area of remaining amenity space will be approximately 150 square metres with a length of 17 metres. This exceeds the minimum standards in the Council's Residential Design Guide for a detached dwelling. The communal spaces, including the lounge, will be retained by condition.

7.0 Summary

7.1 In summary, it is considered that 2 additional persons will not materially affect the character of the local area in terms of the balance of households in the local community, and will not adversely affect the amenity of local residents or highway safety.

8.0 Conclusion

8.1 In conclusion, the proposal will be in accordance with the Council's current adopted guidance and policies and have acceptable impact. As such the proposal is recommended for conditional 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), 6(c), 7(a), 9(a), 9(b).

SB for 28/05/13 PROW Panel

PLANNING CONDITIONS

01. APPROVAL CONDITION - Full Permission Timing Condition - Physical works

The development works hereby permitted shall begin not 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. APPROVAL CONDITION – Extension at no. 5 [Grampian Condition]

First occupation of the extension hereby approved shall not occur until the extension approved under permission 13/00384/FUL at 5 Blenheim Gardens has been completed to shell and core.

Reason:

In the interests of protecting the amenity of neighbouring occupiers, where otherwise the extension built by itself would be harmful to the amenity of no. 5.

03. APPROVAL CONDITION - Materials to match [Performance Condition]

The materials and finishes to be used for the external walls, windows (including recesses), drainage goods and roof in the construction of the building hereby permitted shall match in all respects the type, size, colour, texture, form, composition, manufacture and finish of those on the existing building.

Reason:

To enable the Local Planning Authority to control the development in detail in the interest of the visual amenities of the locality and to endeavour to achieve a building of high visual quality and satisfactory visual relationship of the new development to the existing.

04. APPROVAL CONDITION - No other windows or doors other than approved [Performance Condition]

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any order amending, revoking or re-enacting that Order), no windows, doors or other openings including roof windows or dormer windows other than those expressly authorised by this permission shall be inserted in the development hereby permitted without the prior written consent of the Local Planning Authority.

Reason:

To protect the amenities of the adjoining residential properties.

05. APPROVAL CONDITION - Retention of communal spaces

The rooms labelled lounge and kitchen on the ground floor layout shall be made available for use by all of the occupants prior to first occupation of the extension hereby approved and, thereafter, shall be retained for communal purposes only whilst the property is in C4 use.

REASON

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

06. APPROVAL CONDITION - Refuse storage and collection [Performance Condition]

Unless otherwise agreed by the Local Planning Authority, except for collection days only, no refuse shall be stored to the front of the buildings hereby approved.

Reason:

In the interest of visual amenity and for the safety and convenience of the users of the adjacent footway.

**07. APPROVAL CONDITION - Residential - Permitted Development Restriction
[Performance Condition]**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), or any Order amending, revoking or re-enacting that Order, no building or structures within Schedule 2, Part 1, Classes as listed below shall be erected or carried out to any dwelling house hereby permitted without the prior written consent of the Local Planning Authority:

Class F (hard surface area)

Reason:

In order that the Local Planning Authority may exercise further control in this locality given the potential for increased surface water run off from a high concentration of Houses in Multiple Occupation in the local area, and in the interests of protecting the visual amenity of the local area.

08. APPROVAL CONDITION - Retention of the front boundary treatment

Unless otherwise agreed in writing by the Local Planning Authority, the existing front treatment shall be retained and no part shall be removed.

Reason:

In the interests of protecting the visual amenity of the local area.

09. APPROVAL CONDITION - 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.

INFORMATIVE

It was agreed that an informative note would be added to the decision notice reminding the applicant that any intensification of the use beyond C4 would require planning permission.



13/00385/FUL

Scale : 1:1250

Date : 15 May 2013

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