

**Southampton City Planning & Sustainability**  
**Planning and Rights of Way Panel meeting 29 May 2012**  
**Planning Application Report of the Planning and Development Manager**

<b>Application address:</b> 14 York Terrace, Henstead Road SO15 2DD			
<b>Proposed development:</b> Change Of Use From A C3 Dwelling House To A 7-Bed House In Multiple Occupation (HMO, Sui Generis) (Submitted In Conjunction With 12/00246/Lbc).			
<b>Application number</b>	12/00245/FUL	<b>Application type</b>	FUL
<b>Case officer</b>	Mathew Pidgeon	<b>Public speaking time</b>	5 minutes
<b>Last date for determination:</b>	07.05.2012	<b>Ward</b>	Bargate
<b>Reason for Panel Referral:</b>	Member referral	<b>Ward Councillors</b>	Bogle Noon Tucker
		<b>Previously consulted Cllrs</b>	Bogle Noon Willacy

**Applicant:** Dr Christopher Lawrence

<b>Recommendation Summary</b>	<b>Refuse</b>
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**Reason For Refusal**

The Local Planning Authority considers that the conversion to residential use, for occupation by up to 7 unrelated individuals, constitutes a change of use to a *sui generis* House in Multiple Occupation. The resulting concentration of HMO's in the immediate vicinity of the site (40m of the front door) would lead to a cumulative change in the character of the area and undermine the Council's approach of promoting mixed and balanced communities to the detriment of the amenities of the area. As such the proposal is contrary to Policies SDP1 (i), H4 (i) and (ii) of the saved City of Southampton Local Plan Review (March 2006) and Policy CS16 of the adopted Local Development Framework Core Strategy Development Plan Document (January 2010) as supported by the adopted Houses in Multiple Occupation Supplementary Planning Document (March 2012).

<b>Appendix attached</b>	
1	Development Plan Policies
2	Section 6.6 of the Houses in Multiple Occupation Supplementary Planning Document (SPD) and weblink to the SPD
3	Supporting information provided by Morris Dibben – letter dated 30 April 2012
4	Supporting information provided by Morris Dibben – letter dated 9 May 2012
5	Supporting statement provided by applicant

**Recommendation in Full: Refusal**

## **1. The site and its context**

- 1.1 The site contains a large terraced property which is currently in use as a family dwelling house. The street contains a variety of property types created by the conversion of/or retention of family dwellings. The street includes, family dwellings, HMO's and flats.

## **2. Proposal**

- 2.1 The proposal involves the change of use of the C3 dwelling house (family dwelling house) to a 7-Bed house of multiple occupation (HMO) (Sui Generis). No external alterations are required however there are internal changes needed to ensure compliance with HMO licensing regulations.
- 2.2 Approval would allow 7 unrelated individuals to reside in the property.

## **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 came into force on 27 March 2012. Having regard to paragraph 214 of the National Planning Policy Framework the policies and saved policies set out in **Appendix 1** which have been adopted since 2004 retain their full material weight for decision making purposes.
- 3.3 The City Council adopted its Houses in Multiple Occupation Article 4 direction and associated Supplementary Planning Document on the 23rd March 2012. The two documents immediately became material planning considerations and therefore applications submitted before that date but which have been/are determined after that date need to comply with the legislation before support can be given to those schemes. Please refer to **Appendix 2** for a web link to the Houses in Multiple Occupation Supplementary Planning Document (SPD).

## **4.0 Relevant Planning History**

- 4.1 **1229/17** – Extension to kitchen - Application Permitted
- 4.2 **1613/L3(X)** – Erection of a second floor rear extension and first floor extension enlargement - CAP
- 4.3 **12/00032/PREAP1** - Change of use from dwelling to a 7 bedroom HMO or 5 bedroom HMO with lower ground floor flat.

**Conclusion:** *Due to the Article 4 direction coming into effect from 23<sup>rd</sup> March 2012 it is difficult to confirm with certainty whether or not an application for a 6 or 7 bed HMO will be supported. As a Planning Officer my expectation is that Officers would apply the exception rule to the 6 bed HMO. However, a 7 bed HMO would be more difficult to justify, especially given that neighbouring properties are small (up to 6 bed) HMOs.*

It should be noted that the above conclusion was formulated without undertaking the detailed assessment as set out in the SPD.

- 4.4 **12/00246/LBC** - Listed building consent sought for internal alterations to enable change of use from a C3 dwelling house to a 7-bed house in multiple occupation (HMO, Sui Generis) (submitted in conjunction with 12/00245/FUL).

## **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 and erecting a site notice (29/03/2012). At the time of writing the report 0 representations have been received from surrounding residents.
- 5.2 Unusually for an application of this nature there have been no objections submitted and there has not been a request for the scheme to be determined at planning panel.
- 5.3 SCC Private Sector Housing – Need to meet the Council's amenity space standards and fire precautions, no objection to the use of the property as a 7 bedroom HMO.
- 5.4 SCC Environmental Health (Pollution & Safety) - No objection.

## **6.0 Planning Consideration Key Issues**

- 6.1 The key issues for consideration in the determination of this planning application are:
- i) Principle of conversion to an HMO.
  - ii) Amenities provided for the occupants.
  - iii) Character of the property.
- 6.2 Principle of conversion to an HMO
- 6.2.1 Following the adoption of the SPD a threshold limit has been set which seeks to restrict the number of houses converted to HMO's in the city. In the Polygon area there is a 20% threshold. Section 6 of the SPD explains how the assessment is made.
- 6.2.2 If the threshold is exceeded it is unlikely that further conversion of family dwelling houses will be permitted that is unless the street is clearly dominated by HMOs. Such exceptional circumstances may lead to the determination of the planning application concluding that the change of use would not, in fact, cause further harm to the character of the area.
- 6.2.3 Following the desk top exercise described in section 6 of the SPD and after visiting the site on numerous occasions, to ensure that a complete and accurate survey of surrounding land use was achieved, 13 out of 22 properties within 40m of the host dwelling would be HMO's (the figure incorporates the proposed HMO).
- 6.2.4 Of the 22 buildings there is at present:
- 12 HMOs.
  - three owner occupied/family dwelling houses,
  - three flat conversions (of less than three bedrooms),
  - three commercial buildings; and
  - one mixed use property (commercial at ground floor level with residential above).
- 6.2.5 As such, seven properties should be eliminated from the calculation, (refer to paragraph 6.4.2 'stage 3' of the HMO SPD).
- 6.2.6 It should be noted that paragraph 6.4.2 of the SPD states: *'The concentration of HMOs surrounding the application site is calculated as a percentage of the 'total*

*estimated number of existing HMOs' against the 'total number of residential properties'.*

- 6.2.7 Therefore the concentration of HMOs surrounding the application site is **80%**. (12 out of 15) and already exceeds the threshold limit.
- 6.2.8 Paragraph 6.5.1 of the SPD goes on to say that in this location *'where the proportion of HMO dwellings will exceed 20% of the residential properties'* applications should be refused. Therefore it is also necessary to take account of the proposed HMO in the calculation.
- 6.2.9 As such when the calculation includes the proposed HMO, calculated as a percentage of the total estimated number of **'existing and proposed HMOs'** against the total number of 'residential properties', the concentration of HMOs within the assessment area would become **87%** (13 out of 15).
- 6.2.10 In which case the mix of households in the community would increasingly become unbalanced if the application is supported.
- 6.2.11 It is however regarded by the applicant that the proposal should be considered an exceptional circumstance as described within section 6.6 of the HMO SPD (please refer to **appendix 3**)
- 6.2.12 It is noteworthy that the supporting information provided by Morris Dibben estate agents (please refer to **appendix 4**) expresses their opinion that there is no reasonable demand for the continued use of the existing residential property as a family dwelling.
- 6.2.13 The statement by Morris Dibben confirms that they have been marketing the property since 5th December 2011 at a reasonable price based on the assessment of the property market in the local area. There are two main reasons noted:
1. No demand for family dwelling houses due to the high density of student accommodation close by and close proximity of nightlife of Bedford Place.
  2. Article 4 direction has made it impossible to sell to investors who would have otherwise purchased the property for HMO use.
- 6.2.14 It is the Officers opinion that it has been adequately demonstrated that there is no reasonable demand for the property at present. The SPD, however, does not have an upper limit where the threshold ceases to have an effect.
- 6.2.15 Paragraph 6.6.1 of the SPD acknowledges that there *'may be certain streets in the city where the vast majority of properties are already HMOs, with only a very small proportion of C3 dwellings remaining.* It is the Officers opinion that this is true of Henstead Road however the paragraph goes on to explain that: *'The retention of 1 or 2 of the remaining dwellings will have little affect 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 C3 dwellings to an HMO would not further harm the character of an area.'* C3 dwellings being owner occupied properties.
- 6.2.16 In coming to the recommendation to refuse the scheme Officers have had specific regard to the numbers stated in the SPD and the number of remaining owner occupied properties in the assessment area. I.e. in order for a change of use to be considered an exception the application dwelling is required to be the final one or two remaining in the street. As at least three dwellings remain owner occupied the exception rule is not applicable.
- 6.2.17 Therefore, at present, the exception rule cannot be applied within the street. However, if the Local Planning Authority were to support the present scheme

the exception rule would then be likely to be triggered and would apply to the remaining two properties if it is demonstrated they are the final two C3 dwellings in the street.

- 6.2.18 Paragraph 6.6.2 recognises that there is no upper limit where the threshold ceases to exist, however where the owner of the last remaining property is unable to sell the property for continued C3 use, change to an HMO can be justified by a supporting statement provided by a relevant professional (estate agent) illustrating no reasonable demand for the property as a C3 dwelling. The statement must demonstrate that the property has been on the market at a reasonable price for at least six months. The statement by Morris Dibben aims to provide the justification required notwithstanding the fact that the property is one of three remaining C3 dwellings in the assessment area.
- 6.2.19 On balance, although the applicant has provided a statement which confirms that the property cannot be sold as a C3 dwelling the application cannot be supported in principle at Officer level as there are more than 'one or two' remaining C3 dwellings left in the street and as such the scheme does not accord with section 6.6 of the SPD.
- 6.2.20 It is noted that the application is for a large HMO rather than a C4 HMO (occupied by between 3 and 6 unrelated occupants). Large HMOs can have a greater impact on surrounding areas through noise and disturbance by their very nature owing to increased comings and goings. A large HMO will also have greater refuse and cycle storage requirements. With regard to this particular application site however it is not envisaged that the extra one occupant will significantly increase the impact caused.

### 6.3 Amenities provided for the occupants.

- 6.3.1 Refuse and cycle storage provision can be met on site and there is sufficient amenity space.

### 6.4 Character of the Property.

- 6.4.1 The proposal does not include alterations to the external appearance of the building and therefore the physical character of the property is unlikely to be affected.

## 7.0 Summary

- 7.1 Notwithstanding the lack of objection letters associated with the planning application the change of use to a HMO is recommended for refusal owing to the approved 20% threshold for HMO's being exceeded but there being more than one or two houses left within the C3 use class thereby preventing an exception case from being made.

## 8.0 Conclusion

- 8.1 Notwithstanding the statement provided by the applicant confirming that the property cannot be sold as a C3 dwelling the application cannot be supported in principle. The circumstances surrounding the application site do not allow the scheme to be considered an exceptional circumstance in light of section 6.6 of the HMO SPD.

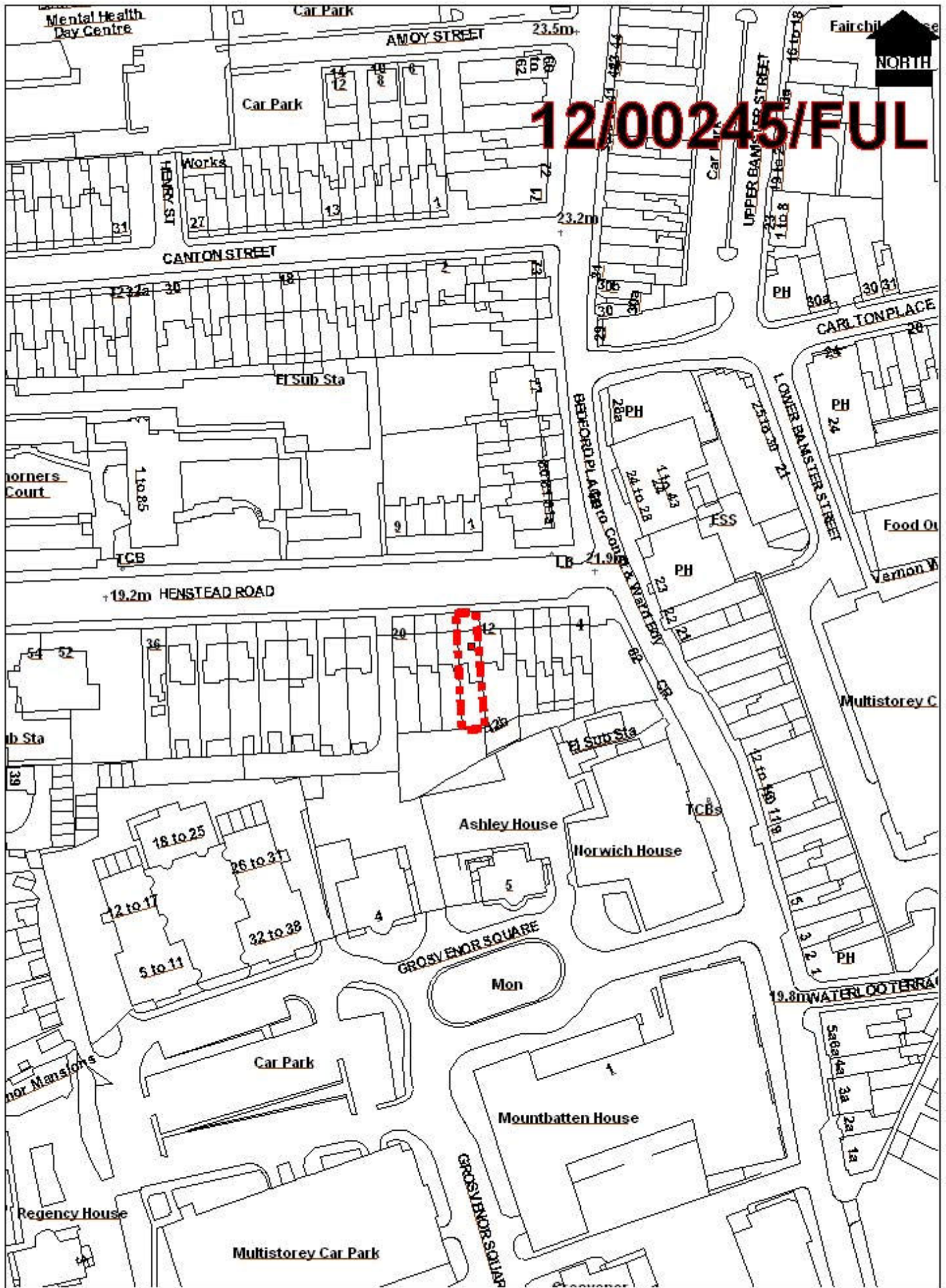
**Local Government (Access to Information) Act 1985**  
**Documents used in the preparation of this report Background Papers**

1(a), 1(b), 1(c), 1(d), 2(b), 2(d),4(f), 4(qq), 6(c), 7(a), 9(a), 9(b).

**MP3 for 29/05/2012 PROW Panel**

**Reason for refusal**

The Local Planning Authority considers that the conversion to residential use, for occupation by up to 7 unrelated individuals, constitutes a change of use to a *sui generis* House in Multiple Occupation. The resulting concentration of HMO's in the immediate vicinity of the site (40m of the front door) would lead to a cumulative change in the character of the area and undermine the Council's approach of promoting mixed and balanced communities to the detriment of the amenities of the area. As such the proposal is contrary to Policies SDP1 (i), H4 (i) and (ii) of the saved City of Southampton Local Plan Review (March 2006) and Policy CS16 of the adopted Local Development Framework Core Strategy Development Plan Document (January 2010) as supported by the adopted Houses in Multiple Occupation Supplementary Planning Document (March 2012).



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