

**Planning, Transport & Sustainability Division**  
**Planning and Rights of Way Panel 23 April 2013**  
**Planning Application Report of the Planning and Development Manager**

<b>Application address:</b> 75 Upper Shaftesbury Avenue SO17 3RU			
<b>Proposed development:</b> Erection of a part 2-storey part single storey side/rear extension to existing class C4 property			
<b>Application number</b>	12/01884/FUL	<b>Application type</b>	FUL
<b>Case officer</b>	Stuart Brooks	<b>Public speaking time</b>	5 minutes
<b>Last date for determination:</b>	08.02.2013	<b>Ward</b>	Portswood
<b>Reason for Panel Referral:</b>	Referred by the Planning & Development Manager due to wider public interest	<b>Ward Councillors</b>	Cllr Vinson Cllr Claisse Cllr Norris

<b>Applicant:</b> Mr Chhokran	<b>Agent:</b> Sanders Design Services Ltd
-------------------------------	---

<b>Recommendation Summary</b>	<b>Conditionally approve</b>
-------------------------------	------------------------------

**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 one additional person 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).

<b>Appendix attached</b>			
1	Development Plan Policies	2	Appeal decision - 1 Blenheim Gardens
3	Appeal decision - 13 Grosvenor Road	4	Appeal decision - 53 Shaftesbury Avenue

**Recommendation in Full**

**Conditionally approve**

## **1.0 The site and its context**

- 1.1 The application site is located on the west side of Upper Shaftesbury Avenue to the east of Portswood Road, within Portswood ward. This is mainly a residential street comprised of detached and semi detached dwellings with a mix of styles.
- 1.2 The site contains a 2 storey semi-detached dwelling, with a side car port. The property is established as a small HMO (class C4) with 4 occupants, and communal facilities including a bathroom, kitchen, diner, and toilets.

## **2.0 Proposal**

- 2.1 It is proposed to erect a part two storey, part single storey side and rear extensions to an existing C4 HMO.
- 2.2 The applicant agreed to submit amended plans to address concerns with regards to impact on the amenity of no. 77, by retaining the same footprint, with the two storey extension repositioned to the rear, and the side extension becoming single storey. As a result, an existing bedroom on the first floor will be extended to the rear, and an additional bedroom and dining facilities provided on the ground floor.

## **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 27<sup>th</sup> 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 23 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 23 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. Following the receipt of amended plans, the application has been reconsulted for 14 days, which will expire on 19 April. Any further comments will be reported at the panel meeting. At the time of writing the report **3** representations have been received from surrounding residents, where the concerns raised have been set out below:

##### **5.2 Comment**

The property is not established as a C4 HMO.

##### **Response**

The applicant is duty bound to provide accurate information on the application form, and the LPA should take the information provided in good faith. To demonstrate that the property was occupied on 23<sup>rd</sup> March 2012 (effective date of Article 4 direction), the applicant has provided a 12 month signed tenancy agreement for 4 tenants from 16<sup>th</sup> March 2012 to 16<sup>th</sup> September 2012, and 1<sup>st</sup> July 2012 to 30<sup>th</sup> June 2013.

##### **5.3 Comment**

Loss of light and privacy to the neighbouring properties.

##### **Response**

This is addressed in section 6.4 of the report.

##### **5.4 Comment**

Overdevelopment of the site, and disproportionate development in bulk and size, which would be out of character with the local area.

##### **Response**

This is addressed in section 6.3 of the report.

##### **5.5 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.

##### **5.6 Comment**

The extension would result in the potential for more than 6 occupants and, therefore, require further permission for a change of use to a large HMO (sui generis). Previous appeal decisions in the local area held that an increase in number of occupiers would create material harm, including 1 Blenheim Gardens (ref no. 2156569), 13 Grosvenor Road (ref no. 2167641), 53 Shaftesbury Avenue

(ref no. 2177575) (see attached **Appendices 2-4**).

Response

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. The applicant is entitled to have up to 6 residents occupying the property without a material change of use as it is established as a small HMO, however, there is potential for a maximum of 5 residents as there is only 5 bedrooms.

The appeal decisions cited at 1 Blenheim Gardens and 13 Grosvenor Road refer to the harm caused by change of use to a large HMO and, therefore, these cases are different in nature to this application as the property will not change use from a small to a large 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.

5.7 Comment

There will be insufficient amenity space remaining.

Response

The area of remaining private amenity space will be approximately 170 square metres with a length of 22 metres. This exceeds the minimum standards in the Council's Residential Design Guide for a detached dwelling.

5.8 **SCC Highways** – No objection.

5.9 **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 23<sup>rd</sup> March 2012 (effective date of Article 4 direction), the applicant has provided a 12 month signed tenancy agreement for 4 tenants from 16<sup>th</sup> March 2012 to 16<sup>th</sup> September 2012, and 1<sup>st</sup> July 2012 to 30<sup>th</sup> 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 23<sup>rd</sup> 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 up to 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 an additional bedroom to allow 1 more occupant. 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 1 additional occupant 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 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. The visual gap between no. 77 will be maintained as the side extension is single storey in scale.

### 6.4 Impact on amenity of neighbouring occupiers

- 6.4.1 The Case Officer raised concerns with regards to the impact of the proposed two storey side extension resulting in the loss of light to the ground floor side bedroom window at no. 77. To address these concerns the applicant agreed to reposition the two storey extension to the rear, with the side extension becoming single storey to a lowered eaves height of 2.1m. As a result, the height of the proposed single storey side extension will ensure that the light serving the neighbour's bedroom is sufficiently retained. The proposed ground floor side bathroom window will be obscure glazed, which will ensure there is no loss of privacy to the adjacent bedroom window.
- 6.4.2 The proposed ground floor rear extension adjacent to the common boundary with no. 73 to the north has a depth of 3.7m, with an eaves and ridge height of 2.7 and 3.6m. Given the orientation of the proposed extension and its height visible above a 2m high fence (fence allowed under permitted development), it is considered that there will be no adverse impact on the light and outlook of the neighbouring

occupiers. Furthermore, there is sufficient separation distance of the proposed 2 storey rear extension from the neighbouring occupiers to ensure that there is no adverse impact on amenity. There is no direct overlooking of the neighbour's private garden space or habitable rooms and, therefore, their privacy will not be adversely affected.

## 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 there is still space for on site parking in front of the extension which is currently used and, therefore, it is considered that there will be adverse impact on highway safety.

## 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, subject to the applicant providing sufficient fire precautions, and retaining the communal spaces as proposed. 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 170 square metres with a length of 22 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 an additional person 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 23/04/13 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 - 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.

### **03. 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.

### **04. APPROVAL CONDITION - Window specification limitations [Performance Condition]**

Unless the Local Planning Authority agree otherwise in writing and notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (as amended), or any Order revoking or re-enacting that Order, in relation to the development hereby permitted, the ground floor bath window on the north elevation facing shall only be top-opening and fitted with obscure glazing. The windows shall be retained in this manner for the duration of use of the building for residential occupation.

Reason:

To protect the amenity and privacy of the adjoining property.

### **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 - 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.

Note to applicant:

The inspection chamber indicated to the side of the existing building is relocated so it remains external to the building. The applicant is advised that additional fire precautions may be required and they should contact Environmental Health Housing on 023 8083 3000.





Scale : 1:1250

Date : 10 April 2013

© Crown copyright. All rights reserved. Southampton City Council 100019679 2004.

