

Southampton City Planning & Sustainability
 Planning and Rights of Way Panel meeting 28th September 2010
 Planning Application Report of the Planning and Development Manager

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| Application address: | | | |
| 119 Earls Road SO14 6TZ | | | |
| Proposed development: | | | |
| Change of use from residential (class C3) to a 4 bedroom house in multiple occupation, HMO (class C4) for a maximum of 5 people | | | |
| Application number | 10/00711/FUL | Application type | FUL |
| Case officer | Stuart Brooks | Public speaking time | 5 minutes |
| Last date for determination: | 09.08.2010 | Ward | Bevois |
| Reason for Panel referral | Recent changes in HMO legislation | Ward Councillors | Cllr Rayment Cllr Barnes-Andrews Cllr Burke |

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| Applicant: Dr Matthew Dipper | Agent: n/a |
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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. In this instance a family home can be re-established as there are only minor internal physical changes to the building, and there will be permitted development rights to do this without planning permission after 1.10.2010. The occupation of this property in terms of the level of noise and refuse with 5 separate persons sharing basic amenities will not significantly differ to that as occupied by a single household. 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 and H4 of the City of Southampton Local Plan Review (March 2006); and CS16 of the Local Development Framework Core Strategy Development Plan Document (January 2010).

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| Appendix attached | | | |
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| 1 | Development Plan Policies | | |
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Recommendation in Full

Conditionally approve

1. The site and its context

1.1 This application site comprises of a two storey, end of terrace, dwelling close to the junction with Lodge Road. This part of Earls Road is mainly characterised by two storey terraced and semi detached dwellings with small gardens in a tight urban grain. The property is currently occupied as a class C3 dwelling. A walkway leads to the rear garden from Earls Road providing a side access adequate for cycle and bin storage for which the applicant has right of access. There is currently no traffic regulation order controlling the level of parking in this part of the street.

2. Proposal

2.1 The proposal involves the change of use from single family dwellinghouse (class C3) to a 4 bedroom house in multiple occupation (HMO) (class C4) for a maximum of 5 people to occupy. There will be associated facilities for refuse storage and cycle storage provided in the rear garden which is accessible via the side access. Minor internal alterations will be carried out to facilitate the change of use, whilst maintaining the current number of bedrooms on the first floor with shared habitable living space on the ground floor. The footprint and external appearance of the building will be unaltered.

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 Policy CS16 of the Core Strategy resists the loss of family dwelling houses and seeks to control houses in multiple occupancy, particularly those properties which provide accommodation for students.

3.3 Paragraph 5.2.11 prevents the loss of family dwelling houses on redevelopment / conversion sites where planning permission is required. CS16 opposes proposals which seek to change the physical layout of family dwelling houses so they no longer have the potential to be used as family dwelling houses, preventing the demolition or conversion of family dwelling houses into bedsits or flats where a family sized unit is not provided. Therefore, Policy CS16 would restrict the conversion of a 3 bedroom (or larger) C3 dwelling to smaller flats and/or bedsits but does not prevent a change to C4 shared houses.

3.4 Paragraph 5.2.12 explains that *‘where planning permission is required the acceptability of a proposal to convert a building to a House in Multiple Occupation (HMO) will be assessed by balancing the contribution that such a conversion will make to meeting housing demand against the potential harm to the character and amenity of an area and the suitability of the property concerned. Further information is contained in Policy H4 of the adopted Local Plan Review.’*

3.5 Planning permission is currently required for a change of use to a C4 dwelling house due to a change in the Use Classes Order (adding class C4) which took effect on 6th April 2010. The government have indicated that from 1st October 2010 this is will not be

the case and that planning permission will not be required to change from a C3 to a C4 dwelling, unless the local planning authority establishes an area of restraint, where those permitted rights are withdrawn. However, at the present time a change of use from C3 Use to a C4 use is required and the application should be assessed under the criteria of Policy H4. Valid considerations associated with C4 use include level of activity, parking and impact on the character of the area.

3.6 Policy H4 requires the LPA to balance the contribution a development could make to meet housing demand against the harm to the character and amenity of the area. In particular the assessment must take account of the amenities of the residents of nearby properties, the character and amenity of the surrounding area and the adequacy of the amenity space which is provided.

4.0 Relevant Planning History

None

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, placing a press advertisement (enter date) and erecting a site notice (enter date). At the time of writing the report **3** representations have been received from surrounding residents. The following observations/comments were made:

- The application is contrary to PPS3 guidance and local plan policy H4 and CS16, and emerging policies in the LDF.
- Result in the degradation and loss of character and amenity of the area.
- Result in overdevelopment of this type of property
- Result in additional parking in a congested street with a lack of parking space
- The local area is overburdened by HMOs, experiencing night time noise disturbance by the occupiers returning home including students who do not behave in reasonable manner.

RESPONSE

These planning considerations are responded to in detail in section 6 of the report - Planning Considerations.

5.2 **SCC Highways Development Control** – No objection to the proposal.

5.3 **SCC Planning Policy** – No objection to the proposal.

6.0 Planning Consideration Key Issues

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

- i. The principle of development;
- ii. Character and amenity of the surrounding area; and
- iii. The adequacy of the amenity space provided.

6.2 Given that the scheme would not change the physical structure of the property or prevent it from being used as a family dwelling house in the future; and given the current

policy status, the principle of the change of use is acceptable subject to the criteria of policy H4.

6.3 The current balance between C3 and C4 dwelling houses in Earls Road is continuing to be monitored with help from other council departments and reviewing the electoral register and council tax records. The current level of C4 dwellings in Earls Road from electoral register is 26 out of approximately 167 residential properties, which consists of 11 C4 dwellings in this part of Earls Road.

6.5 The judgement as to the acceptability of the proposals whilst planning permission is still required falls upon the criteria of Policy H4. It is recognised that there is the potential for a greater level of activity to take place at the property and in the local area as a result of a C4 dwelling house in comparison to a C3 dwelling house. The activity is likely to include increased movement by residents, additional vehicular parking, additional refuse and noise as occupants would not be residing within the property as a family unit living together in a traditional sense.

6.6 Whether the additional activity is harmful is, however, more difficult to prove particularly if a limitation on the number of occupiers is set at 5 persons. As previously stated the change of use would not be considered out of character and/or context with the surroundings as there are already C4 dwellings in the neighbourhood.

6.7 Whilst there is potential for some additional Impact on the amenities of neighbouring residents it would be very difficult to quantify and, therefore, unlikely to be harmful in itself should future occupiers behave reasonably. Unreasonable behaviour by occupiers resulting in statutory nuisance would be dealt with by other legislation.

6.8 The Highway Officer has commented that there will be no additional requirement for bin storage, which is currently stored in the front curtilage. The applicant has right of access under their title deeds.

6.9 Other terraced properties in the street access their rear garden for cycle storage through the house. The details of the appearance of the storage facility should be provided prior to occupation to ensure that it is secure and fit for purpose.

6.10 There is no minimum amount off street parking spaces required in this location which is defined as medium accessibility under the adopted Core Strategy. There are currently no parking restrictions on street, and the Highway Officer has not raised any highway safety concerns with regards to parking congestion in the local area. There are no objections to the proposals on highway grounds.

6.11 The determination should also take into account the positive roll that C4 dwelling houses bring to the city and residents of the city as part of the mix of housing supply across the city.

6.12 Many of the representations object to the proposal on the grounds that there would be an overdevelopment of the site, in-sufficient amenity space and unacceptable parking pressure would be caused.

6.13 In response it should be noted that whilst the property characteristically remains as a C3 dwelling, there is no reason why the same number of individuals could live at the property and own the same number of vehicles as those associated with a C3 dwelling house.

6.14 The proposal is for a maximum number of five residents and the private amenity space is considered adequate given the context of other private gardens in the area.

6.15 Overdevelopment tends to refer to the scale/footprint of new development and is therefore not a consideration in this case, due to the fact that there are to be no physical changes or additions to the dwelling.

6.16 The scheme is not considered out of context and for the reasons discussed above it is not considered reasonable to object to the scheme on the potential effect on surrounding residential amenity.

7.0 Conclusion

7.1 This application has been assessed as being acceptable to residential amenity and its local residential context. The application is recommended for 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), 6(c), 7(a), 7 (e), 10(a), 10(b).

Stuart Brooks for 28/09/10 PROW Panel

PLANNING CONDITIONS

01. APPROVAL CONDITION - Full Permission Timing Condition - change of use

The use 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 - Occupancy Restriction

No more than 5 residents shall at anytime occupy the property whilst it is in use as a C4 dwelling house (House in multiple occupancy whereby the property is occupied by unrelated individuals who share basic amenities).

Reason:

In order that the Local Planning Authority may exercise further control over the intensity of such uses in this locality given the scale of the property and surrounding context; and character.

03. APPROVAL CONDITION - Cycle storage [Pre-Occupation Condition]

The development to which this consent relates shall not be brought into use in full or in part until secure, covered space for 5 bicycles to be stored is agreed in writing by the Local Planning Authority. Once approved, the cycle store shall be fully provided before the first occupation under the Class C4 use hereby approved and thereafter be retained on site for those purposes at all times.

Reason:

To encourage cycling as an alternative form of transport.

04. APPROVAL CONDITION - Residential - Permitted Development Restriction
[Permanent Condition]

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008), or any Order amending, revoking or re-enacting that Order, no other building, extension or structure permitted within Schedule 2, Part 1, Class A (enlargement of a dwelling house), Class B (Addition/alteration to roof), Class C (Any other alteration to roof) or Class E (Outbuilding) - other than the bicycle store to be constructed under condition 03 to this consent) shall be erected or carried out to 119 Earls Road without the prior written consent of the Local Planning Authority:

REASON:

In order that the Local Planning Authority may exercise further control in this locality given the harm that could arise to adjoining residents arising from a more intensified residential occupation of the site.

05. PERFORMANCE CONDITION - Refuse facilities

The existing refuse facilities and access thereto shall be maintained at all times.

REASON:

In the interests of amenity.