

Planning and Rights of Way Panel 24th May 2022
Planning Application Report of the Head of Planning & Economic Development

Application address: 18 Milton Road, Southampton			
Proposed development: Change of use from a dwelling house (class C3) to flexible dwelling house (class C3) or a house in multiple occupation (HMO, class C4)			
Application number:	22/00448/FUL	Application type:	FUL
Case officer:	Anna Coombes	Public speaking time:	5 minutes
Last date for determination:	31.05.2022 (ETA)	Ward:	Bargate
Reason for Panel Referral:	Five or more letters of objection have been received	Ward Councillors:	Cllr D Paffey Cllr J Noon Cllr S Bogle
Applicant: Mr C Baena Blanco		Agent: Kingston Studio	

Recommendation Summary	Conditionally approve
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Community Infrastructure Levy Liable	Not applicable
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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 (2021).

Appendix attached			
1	Development Plan Policies	2	Planning History
3	40m radius assessment summary		

Recommendation in Full

Conditionally approve

1. The site and its context

- 1.1 The application site contains a mid-terrace, two storey dwelling house with a small paved front garden enclosed by a low brick boundary wall and a long rear garden with access from a shared access path along the rear boundary of the property. Milton Road is a short walk to Bedford Place and the wider city centre across the parks.
- 1.2 The property is located within a residential area predominantly characterised by terraced housing. There is a high concentration of HMOs in the locality, which is north-west of the Bedford Place/London Road commercial area. Milton Road and the surrounding streets are mainly covered by a residents' parking permit scheme (Zone number 1, 8am-6pm Monday to Friday) with some short stretches of Milton Road and other roads also allowing 2 hours maximum parking.

2. Proposal

- 2.1 Planning permission is sought for flexible use of the property as either a C3 dwelling or a Class C4 House of Multiple Occupation (HMO) for up to 6 people.
- 2.2 There are no external changes proposed to the property. There are minor internal alterations to the layout of the property proposed, comprising the division of the large first floor front bedroom into two rooms and the conversion of the ground floor front and middle reception rooms into bedrooms.
- 2.3 The concentration of HMO properties within a 40m radius of this property has already breached the 80% minimum threshold at which an applicant may claim exceptional circumstances, as the make up of the area has reached a point at which the predominant character of the local area is for HMO properties rather than C3 single family dwellings. As such, and in line with our current HMO guidance, the applicant has provided appropriate marketing evidence to show that there has been no interest from tenants wishing to occupy the dwelling as a C3 single family use. This is discussed in more detail below.

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) and the City Centre Action Plan (adopted 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 2021. Paragraph 219 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.

4. Relevant Planning History

- 4.1 A full schedule of the relevant planning history for the site is set out in **Appendix 2** of this report. Most relevant is a refusal of permission in 2017 for use of the property as a C4 HMO. This earlier refusal for HMO use was assessed using the same criteria as the current application, with the same 80% minimum threshold before exceptional circumstances could be triggered. The concentration of HMO properties within a 40m radius of the application site at the time, however, was only 72%, so the exceptional circumstances rule could not be triggered, and the application was refused.
- 4.2 The local concentration of HMO uses has increased in the intervening 5 years since this previous refusal. 4 properties that were previously counted in 2017 have now been excluded from the count due to further information being available to identify them as having been converted to flats with fewer than 3 bedrooms (No's 6, 24 and 25 Milton Road and No.7a Wilton Avenue).
- 4.3 2 additional HMO properties have been identified that were not counted in the 2017 assessment. 1 property that was previously not counted as an HMO due to there being insufficient clarity in the information available at the time (No.29 Milton Road), now has an active HMO licence and has been counted as such. 1 additional HMO property that was not previously identified as falling within the 40m radius of the front door of the application site (No.13 Wilton Avenue) has now been included within the 40m radius, following a review of the position of the front door of the property. Even if the previous 40m radius from 2017 is used for this assessment, and No.13 Wilton Avenue is not counted, the HMO concentration would still exceed the 80% minimum threshold for exceptional circumstances.
- 4.4 The current assessment indicates that the 80% threshold for exceptional circumstances has now been reached and the applicant is now able to claim exceptional circumstances, as explained in more detail below.

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 **08.04.2022** and **15.04.2022**. At the time of writing the report **7 representations** have been received; including 2 objections from local Ward Councillors. The following is a summary of the points raised:

- 5.2 **There are too many HMO properties in the area already. Too many HMO landlords have bought property here, not giving the public a chance to buy property.**

Officer Response

It is acknowledged that the 10% threshold assessment detailed within the HMO SPD has already been exceeded within a 40m radius of the site. It is important to note, however, that the Council's adopted threshold for exceptional circumstances has now been reached (at least an 80% concentration of HMOs within the 40m radius area) and therefore exceptional circumstances can be considered for this application - para 4.5.2 HMO SPD 2016 refers.

5.3 The proposal will result in the 'sandwiching' of No.20 Milton Road with HMO uses to either side.

Officer Response

No.20 Milton Road has been previously licenced as an HMO and an investigation by Planning Enforcement in 2019 found that it was operating as an HMO. As such, the proposal will not result in 'sandwiching' of a C3 dwelling with HMO uses to either side.

5.4 Additional HMOs will cause problems for parking.

Officer Response

Parking impacts are addressed in the Planning Considerations section below.

5.5 The proposal will cause nuisance in terms of rubbish and noise.

Officer Response

These issues are addressed in the Planning Considerations section below.

5.6 Consultation Responses

5.7 Cllr J Noon

Further HMO's in the area will have a detrimental impact on Milton Road and the rest of the Polygon.

5.8 Cllr S Bogle

Objection to this application due to high concentration of HMOs in this street and area and impact on amenity and parking.

Officer response

Local Councillors concerns are noted and these issues are addressed in the Planning Considerations section below.

5.9 Environmental Health

No objection.

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;
- The impact on the character of the area;
- The impact on the residential amenity of neighbouring residents;
- The impact on the residential amenity of future occupiers and;

- The impact on local parking amenity.

6.2 Principle of Development

- 6.2.1 Planning permission is sought for flexible use of the property as either a C3 dwelling or a Class C4 House of Multiple Occupation (HMO) for up to 6 people. As per the HMO Supplementary Planning Document (HMO SPD), revised in 2016, a condition can be applied to allow swapping between a C3 single family dwelling and a C4 HMO use for a period of 10 years without the need for planning permission. This 'flexible' type of permission enables the owner to rent to both families and sharers without the need for further permission and enables the existing property to be returned to use as a family dwelling at any time by way of a change of tenants, as the building structure would remain unchanged and the minor alterations to the internal layout would not prevent the property returning to the previous use as a C3 family dwelling.
- 6.2.2 The change from a C4 HMO use back to a C3 dwelling would not require planning permission. The proposal does not, therefore, result in the net loss of a family home and the proposal would be in accordance with policy CS16 of the Core Strategy. The proposed development is also in accordance with saved policies H1 and H2 of the Local Plan which support the conversion of existing dwellings for further housing and require the efficient use of previously developed land. As confirmed by Core Strategy Policy CS16, the proposed HMO use meets a recognised housing need for single households or for those with lower incomes and is therefore, acceptable in principle.

6.3 Impact on the character of the local area

- 6.3.1 The threshold assessment shows that the initial 10% maximum threshold for HMO concentration has been significantly breached within a 40m radius of the front door of the application site. However, the HMO SPD also allows for an exception test, which applies where it is proven there is a concentration of HMOs greater than 80%. The application has demonstrated that the concentration of the area has now met the 80% threshold and therefore claims for exceptional circumstances can be made. The existing concentration of HMOs within the 40m radius is now at 85%. To support their claim, the applicant has sought to demonstrate that the property has been marketed as a C3 family dwelling for at least 6 months with no interest (Section 4.5 of the HMO SPD (amended 2016) refers).
- 6.3.2 Exceptional circumstances apply to situations where the existing concentration of HMO properties is very high and the retention of remaining C3 dwellings *"will have little effect 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 buildings to a HMO would not further harm the character of the area"* (para 4.5.2 HMO SPD 2016).

6.3.3 The applicant has submitted marketing evidence from Cryers letting agency, detailing an active marketing period of just over 6 months from 16th June 2021 to 19th December 2021, demonstrating that the property was advertised as a C3 single family dwelling, at a reasonable market rate, with no viable interest from tenants wishing to occupy the property as a C3 use. As such, the requirements for claiming exceptional circumstances have been met. This test recognises the difficulty that property owners may have in letting or selling in an area with a predominant HMO character.

6.3.4 Given the discussions above, it is considered that the concentration of HMOs in the local area has reached such a point that the predominant character of the area has already changed from one of C3 residential dwellings to C4 HMO uses. The Applicant has met the requirements for claiming exceptional circumstances and the proposal is not, therefore, considered to cause significant additional harm to the character of the local area or further imbalance the area beyond the existing mix and character of the area.

6.3.6 In terms of physical impacts, the front boundary wall of the property has recently been altered to create an alcove for the designated storage of bins on site, so that they do not obstruct the footpath on collection days, reducing street clutter. These changes would not result in harm to the visual amenity of the area.

6.4 Impact on the residential amenity of neighbouring residents

6.4.1 As noted above, the character of the local area is already predominantly HMO properties. It is also worth noting that the immediately neighbouring properties to either side of the application site, No's 16 and 20, are both operating as existing HMO uses. The nearest C3 residential property is No.15 Milton Road on the opposite side of the road, followed by No.24, which is 10m to the west and No.10 which is 20m to the east of the application site. As such, the proposal for 1 additional HMO use is not considered to have a significantly harmful impact on the amenity of neighbouring residents in terms of noise and disturbance.

6.5 Impact on the residential amenity of future occupiers

6.5.1 The proposal involves minor internal alterations to the property resulting in the creation of 1 additional bedroom at first floor by dividing the previous large front bedroom into 2 rooms, and converting the existing 2 front reception rooms at ground floor into 2 further bedrooms. Each bedroom has good light and outlook via windows to the front and rear of the property. The proposal would retain a communal living space on the ground floor with lounge and kitchen area with direct access to the rear garden amenity space. A condition is recommended to secure retention of the communal living space.

6.5.2 Each of the bedrooms and the communal kitchen/lounge would comfortably exceed the minimum size standards set by HMO licencing, as shown below.

Two shower rooms are provided. Therefore occupants would be provided

Room	Size	HMO Licencing minimum standard:
Communal Kitchen /Lounge	24m ²	13m ² for 6 people
Ground floor front bedroom	14m ²	6.5m ² (Where there is communal space elsewhere)
Ground floor rear bedroom	12.5m ²	
First floor front left bedroom	9m ²	
First floor front right bedroom	9.6m ²	
First floor middle bedroom	9.5m ²	
First floor rear bedroom	10.9m ²	

with a good standard of living:

6.5.3 Secure cycle storage with suitable cycle stands have been proposed in the existing shed within the rear garden, which is large enough to accommodate 6 cycles and has good access from the shared access path along the rear of these terraced properties.

6.5.4 As mentioned above, there is an alcove within the existing front boundary wall for the storage of wheelie bins, so that they do not obstruct the public footpath on collection days. Storage of bins to the front of the dwelling is consistent with the existing situation for the majority of properties along Milton Road.

6.6 Impact on local parking amenity

6.6.1 Although there is no off-street parking provided, this is not unusual for the majority of properties along Milton Road. This road and surrounding roads are restricted to either residents' permit parking only, or a maximum of 2 hours parking without a permit. Paragraph 5.2 of the HMO SPD states that where a property is within a residents' parking permit zone, occupants are entitled to apply for permits, however the number of permits available will be restricted in accordance with the local parking policy, which would control the number of cars associated with the dwelling. The proposal would not result in the property being entitled to any more parking permits than existing.

6.6.2 Furthermore the site is very close to local amenities within Bedford Place and London Road, and to the City Centre itself. As such, the proposal is not considered to have a harmful impact on the levels of parking available in the local area.

7. Summary

7.1 The proposal for the conversion of the property to a flexible use as a C3 dwelling or C4 HMO is considered to be acceptable in principle, as exceptional circumstances have been demonstrated in relation to the threshold test, and the proposal shall not cause unacceptable harm to the character of the local area, to the amenity of neighbouring residents or local

parking amenity. In addition, the amenity of future occupants of the host dwelling would not be harmed.

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) 7. (a)

Anna Coombes PROW Panel 24.05.2022

PLANNING CONDITIONS

01. Full Permission Timing (Performance)

The development hereby permitted shall begin no 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. Approved Plans (Performance)

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below.

Reason: For the avoidance of doubt and in the interests of proper planning.

03. Refuse & Recycling (Performance)

Before the development hereby approved first comes into occupation, the storage for refuse and recycling shall be provided in accordance with the plans hereby approved and thereafter retained as approved.

Reason: In the interest of visual and residential amenity.

04. Cycle parking (Performance Condition)

Before the development hereby approved first comes into occupation/use, the storage for bicycles shall be provided and made available for use in accordance with the plans hereby approved. The storage shall thereafter be retained as approved for the lifetime of the development.

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

05. Dwelling House and House in Multiple Occupation Dual Use (Performance)

The dual Use Class C3 (dwelling house) and/or Use Class 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. 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: Before the building can be occupied as a single dwelling any HMO license may need to be revoked.

06. Retention of communal spaces & number of occupiers (Performance Condition)

The rooms labelled kitchen/lounge on the proposed ground floor plan, together with the external amenity areas, shall be made available for use by all of the occupants prior to first occupation of the property as a C4 HMO use, as hereby approved, and thereafter shall be retained and available for communal purposes when in use as a HMO. The number of occupiers within the property, when in HMO use, shall not exceed 6 persons unless otherwise agreed upon in writing by the Local Planning Authority.

Reason: To ensure that suitable communal facilities are provided for the residents, and in the interests of protecting the amenities of local residents.

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	Context
SDP10	Safety and security
SDP16	Noise
H1	Housing Supply
H2	Previously Developed Land
H4	Houses in Multiple Occupation
H7	The Residential Environment

Supplementary Planning Guidance

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

Other Relevant Guidance

The National Planning Policy Framework (2021)

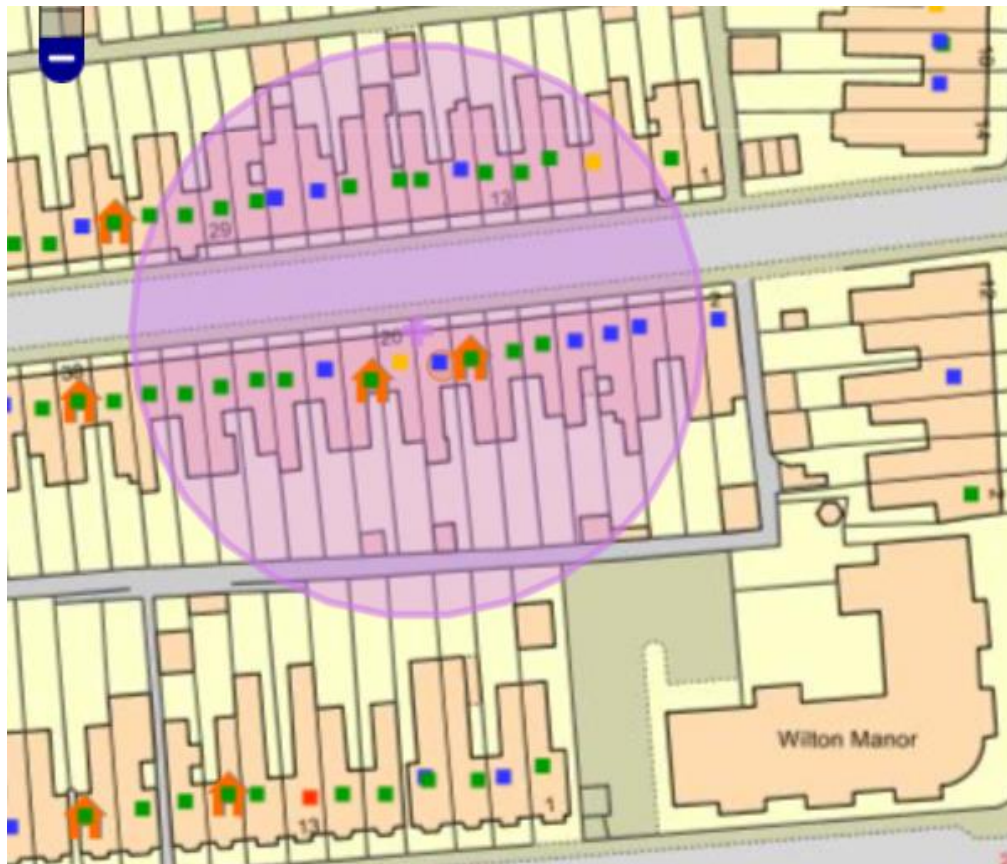
Relevant Planning History:

Case Ref:	Proposal:	Decision:	Date:
1443/237	The erection of a bathroom and general improvements.	Conditionally Approved	05.09.1972
17/00838/FUL	Change of use from dwelling house (use Class C3) to house in multiple occupation (HMO use Class C4)	Application Refused	11.10.2017

REASON FOR REFUSAL - Impact on the character of the local area

The proposed conversion of the property to a House in Multiple Occupation (HMO) will result in an excessive concentration of HMO's within the immediate area and will result in an adverse impact on the overall character and amenity of the area surrounding the application site in terms of the mix and balance of households in the local community. As such, the proposal is contrary to saved policies SDP1 (i) and H4 (ii) of the City of Southampton Local Plan Review (as amended 2015) and Policy CS16 of the adopted Local Development Framework Core Strategy Development Plan Document (as amended 2015), as supported by the adopted Houses in Multiple Occupation Supplementary Planning Document (May 2016).

40m radius assessment summary



		Property type	Notes	C3/C4 use	Counted ?
Milton Road	3	Terraced	5 bed HMO (rightmove)	C4	Yes
	4	Flat	2 bed (zoopla) - Excluded	C3	No
	4A	Flat	2 bed (zoopla) - Excluded	C3	No
	5	Flat	2 bed (zoopla) - Excluded	C3	No
	5A	Flat	2 bed (zoopla) - Excluded	C3	No
	6	Flat 1	2 bed (planning ref: 1271/15) - Excluded	C3	No
	6	Flat 2	2 bed (planning ref: 1271/15) - Excluded	C3	No
	7	Terraced		C4	Yes
	8	Terraced		C3	Yes
	9	Terraced		C4	Yes
	10	Terraced		C3	Yes
	11	Terraced		C4	Yes
	12	Terraced		C4	Yes
	13	Terraced		C4	Yes
	14	Terraced		C4	Yes
	15	Terraced		C3	Yes
16	Terraced		C4	Yes	

	17	Terraced		C4	Yes
	18	Terraced	Application Site	C3	Yes
	19	Terraced		C4	Yes
	20	Terraced		C4	Yes
	21	Terraced		C4	Yes
	22	Terraced		C4	Yes
	23	Terraced		C3	Yes
	24	Flat	1 bed (rightmove) - Excluded	C3	No
	24a	Flat	1 bed (rightmove) - Excluded	C3	No
	25	Flat	2 bed Planning ref: 1298/30 - Excluded	C3	No
	25a	Flat	2 bed Planning ref: 1298/30 - Excluded	C3	No
	26	Terraced		C4	Yes
	27	Terraced		C4	Yes
	28	Terraced		C4	Yes
	29	Terraced		C4	Yes
	30	Terraced		C4	Yes
	31	Terraced		C4	Yes
	32	Terraced		C4	Yes
	33	Terraced		C4	Yes
	34	Terraced		C4	Yes
Wilton Avenue	--	Care Home	Wilton Manor Care Home – Excluded	--	No
	1	Terraced		C4	Yes
	3	Flat	Originally a 6 bed house (rightmove) converted to 6 flats (SCC SoMap Gazeteer) - Excluded	C3	No
	3	Flat		C3	No
	3	Flat		C3	No
	3	Flat		C3	No
	3	Flat		C3	No
	3	Flat		C3	No
	5	Terraced		C4	Yes
	7	Flat	3 bed flat - Included	C4	Yes
	7a	Flat	2 bed (zoopla) - Excluded	C3	No
	9	Terraced		C4	Yes
	11	Terraced		C4	Yes
	13	Terraced		C4	Yes
					C3/C4 use
			Total:	28	33

Existing: 28 / 33 properties

Proposed: 29 / 33 properties

85% existing HMO concentration (84.8%)

88% proposed HMO concentration (87.9%)