

Planning and Rights of Way Panel 11th February 2020
Planning Application Report of the Head of Planning & Economic Development

Application address: 20 Gurney Road, Southampton			
Proposed development: Change of use from a dwelling (C3 Use) to a flexible use for house in multiple occupation (HMO) (C4 Use) or class C3			
Application number:	19/01658/FUL	Application type:	FUL
Case officer:	Stuart Brooks	Public speaking time:	5 minutes
Last date for determination:	Extension of Time 23.02.2020	Ward:	Shirley
Reason for Panel Referral:	Request by Ward Member/ Five or more letters of objection have been received	Ward Councillors:	Cllr Hannah Coombs Cllr Satvir Kaur Cllr Mark Chaloner
Referred to Panel by:	Cllr Kaur	Reason:	Loss of family home Out of character Parking impact
Applicant: Mr Karl Peckham		Agent: n/a	

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. 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 (2019). Policies – CS13, CS16, CS18, CS19 of the of the Local Development Framework Core Strategy Development Plan Document (Amended 2015). Policies – SDP1, SDP5, SDP7, SDP9, H4, H7 of the City of Southampton Local Plan Review (Amended 2015) as supported by the relevant guidance set out in the HMO SPD (2016) and Parking Standards SPD (2011).

Appendix attached			
1	Development Plan Policies	2	HMO 40m radius survey
3	Appeal decision 10 Lumsden Avenue	4	Findings of Parking Survey

Recommendation in Full
Conditionally approve

1. The site and its context

- 1.1 This site is located within the ward of Shirley some 300m from Shirley High Street. The surrounding area is mainly characterised by two storey residential properties within a suburban context. Many of the properties have off-street parking for between 1 and 2 vehicles within Gurney Road and nearby street including Reynolds Road, Cunard Avenue, and Bramston Road. There are street parking controls in Gurney Road and nearby streets.
- 1.2 The site itself comprises a two storey semi-detached dwelling within a modest sized plot (site area of 220sqm) set back from the street by a front garden and driveway for parking, with a rear garden of 90sqm. The property is currently vacant as it is undergoing internal and external renovation works, which include the replacement of the existing garage lean-to with a side extension and loft conversion through the installation of a small dormer on the rear roof slope. These works do not require planning permission and are being carried out under permitted development rights.

2. Proposal

- 2.1 It is proposed to convert the existing 3 bedroom family dwelling (class C3) to a 5 bedroom House of multiple occupation (HMO) (class C4). The physical extension works being undertaken to the dwelling under permitted development do not form part of this application as they would not require planning permission.
- 2.2 The occupiers will share common facilities including kitchen, dining room/lounge and bathroom. The retention of the communal rooms can be conditioned for communal use only so it would not be able to be used as an additional bedroom. Since the submission, the plans are being amended (being sought at the time of writing this report) to show a 5 bedroom HMO. The ground floor front lounge is intended to be used as a bedroom and the bedrooms are to be sequentially renumbered. Likewise, Bedroom 4 (shown as Bedroom 3 on the current plans) is shown to be under the minimum HMO licensing floor size by 0.51sqm, however, the measurements shown are not entirely accurate as the applicant was unable to measure the floor area correctly due to the renovation works taking place. The floor plans will be updated, and verified by the case officer on site, before the Panel meeting to confirm whether or not the bedroom floor size is compliant. Otherwise, the HMO licensing minimum room size standards are complied with as follows :-

Bathroom – 1 shared bathroom required up to 5 persons

Bedroom 1 – 17sqm (min – 6.51sqm)

Bedroom 2 – 14sqm (min – 6.51sqm)

Bedroom 3 (ensuite) – 15sqm (min – 6.51sqm)

Bedroom 4 – to be confirmed following site visit (min – 6.51sqm)

Bedroom 5 – 13sqm (min – 6.51sqm)

Combined Kitchen/living room – 24sqm (11.5sqm for upto to 5 persons)

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 2019. Paragraph 213 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.
- 3.3 Policy H4 (HMOs) and CS16 (Housing Mix) supports the creation of a mixed and balanced community, whilst the policies requires HMO proposals to be assessed against maintaining the character and amenity of the local area. A 10% threshold test (carried out over a 40m radius) is set out in the HMO SPD to avoid over-concentrations of HMOs leading to an imbalance of mix of households within a community.
- 3.4 Saved Policy SDP1 (Quality of development) of the Local Plan Review allows development, providing that it does not unacceptably affect the health, safety and amenity of the city and its citizens. Policies SDP7 (Context) and SDP9 (Scale, Massing, and Appearance) allows development which respects the character and appearance of the local area. Policy H7 expects residential development to provide attractive living environments. Policy CS13 (Fundamentals of Design) assesses the development against the principles of good design. These policies are supplemented by the design guidance and standards as set out in the relevant chapters of the Residential Design Guide SPD. This sets the Council's vision for high quality housing and how it seeks to maintain the character and amenity of the local neighbourhood.

4. Relevant Planning History

- 4.1 There is no relevant planning history for the site.

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, erecting a site notice on 03.12.2019. At the time of writing the report **14** representations have been received from surrounding residents and an objection from the local ward Councillor Satvir Kaur (Panel referral). The following is a summary of the points raised:
- 5.2 **The additional parking demand generated from 5 more cars, in addition to the local shoppers and businesses visiting Shirley High Street parking in the street, will lead to further competition for street parking with local residents, block driveways, and cause congestion and potential highways safety problems. It was the opinion of the Inspector (appeal ref no. APP/D1780/19/3233152- 19th Dec 2019) in up-holding the Council's refusal (LPA ref no. 18/00898/FUL), that the use of surrounding streets for additional parking from the redevelopment of the ex-Riley Snooker Club in Church End would result in unacceptable levels of inconvenience and harm the living standards of residents. This could lead to a detrimental impact to**

the character of the area by more front gardens being paved over and front boundary walls taken down to accommodate displaced street parking. The depth of the driveway is not large enough to accommodate a parked vehicle in accordance with the Council's minimum parking space size (5m by 2.4m).

Response

Each scheme should be dealt with on its own merits and the referenced proposal in Church Lane was a much larger scheme comprising 22 flats so its impact on parking is not comparable to this application, whilst the Inspector noted that the parking survey did not show the parking capacity available. The applicant has undertaken a parking survey within a 200m radius of the site (in accordance with the methodology under the Lambeth model) between the hours of 22.20pm – 02.15am on Saturday 11th January 2020 and the hours of 22.10pm – 00.30am on Wednesday 15th January 2020 (the summary or results is attached to **Appendix 4**). The survey found that 93 and 89 (out of 263 spaces) street parking were available, and only 138 and 143 (out of 246 spaces) off-road driveway spaces were occupied for the 226 properties in the survey area. The application site has one on plot car parking space and a condition is recommended to retain the existing boundary wall in order to protect the character and appearance of the existing street scene. There would be no parking gains by demolishing the front boundary wall to create additional on-plot parking because forecourt parking served by a widened drop kerb would result in the loss of existing on-street parking.

5.3 Loss of a family home.

Response

Although the property would no longer be available for families when used as a HMO, the proposal would not be contrary to policy CS16 which prevents the loss of a family dwelling, given that the property can be readily converted back into use as a family dwelling with minimal changes. That said, a condition can be applied to give the property flexible use so it can be occupied by either a family or as a HMO.

5.4 Errors with the plans – i) Land Registry documents not permitted because of copyright breach and is out of date; ii) Plans are inaccurate as the side extension has not been built yet, so not possible to assess character and appearance impact; iii) The plans do not show the parking spaces.

Response

Based on the information submitted with the application, the case officer is satisfied they are able to make a proper assessment following a site visit. The type of site location plan submitted clearly sets out the location of the site and does not prejudice the decision of the application.

5.5 It is unclear from the plans how many residents will occupy the HMO. The other rooms can be occupied as bedrooms to allow up to 6 six persons.

Response

The applicant proposes up to 5 bedrooms (the ground floor plan has been updated to show a 5th Bedroom which keeps the property within class C4), however, a condition will be applied to retain the communal living space to be used for those purposes only. The property can be occupied with up to 6 persons under class C4.

5.6 In addition to the 10% threshold assessment, the HMO SPD expects other material considerations to be taken into consideration. There are no

existing HMOs in Gurney Road or anywhere nearby. The street is a desirable area for families with predominantly family households. The introduction of the HMO is out of character with the make up of households as family homes. The transient nature of the tenants living in the HMO will negatively change the character of the street. This will set a precedent for more HMOs and this will change the character of the area. Negative impact on the appearance of the street scene by poor refuse management and additional demand for waste by HMO household. These concerns were raised by a Planning Inspector in similar circumstances under appeal decision at 30 Glen Eyre (appeal ref no. APP/D1780/A/12/2185123).

Response

The majority of households (95% of 19 properties) within the 40m radius will remain as family homes so the introduction of the single HMO would not significantly change the character of the area. The nature and intensity of the proposed HMO use would not be out of character with the street, and would not harm the residential amenities of the neighbouring occupiers. There is an ongoing need for shared HMO housing in the city. In allowing the 10 Lumsden Avenue appeal, the Planning Inspector concluded 'it seems on the balance of probabilities that the conversion would have little impact on the prevailing character hereabouts' (paragraph 14 refers), and 'no evidence that one conversion would have a significant or detrimental effect on this character' (paragraph 12 refers). The outer-suburban character of this appeal is different to the suburban context of the application site, and the Inspector distinguished the contextual difference between the outer-suburban location of the Glen Eyre appeal saying they were not comparable (*see Appendix 3*).

- 5.7 **The over-intensive use would result in additional comings and goings to the detriment of established residential amenity within the peaceful area for families and elderly persons and would be different to the existing family occupation. There will be a loss of amenity to the neighbouring occupiers from noise disturbance caused by the independent lifestyle of the individual occupiers, including parties and friends visiting.**

Response

The nature and intensity of the proposed HMO use would not be out of character with the street, and would not harm the residential amenities of the neighbouring occupiers. In allowing the 10 Lumsden Avenue appeal, the Planning Inspector concluded overall that the introduction of a HMO would not adversely affect the amenity of the neighbouring residents (paragraph 14 refers). There are further safeguards because a HMO licence would be required (Shirley ward is covered by the second additional licensing scheme) and, therefore, the management and standards of property would be monitored by other teams in the Council. The Council has powers to serve a noise abatement notice where it considers that any noise nuisance caused by the residents is deemed as statutory noise nuisance. This in itself is not however a reason to withhold planning permission.

- 5.8 **The access of the cycle storage through the house to the rear garden is an unacceptable design solution and therefore would not meet the Council's requirements for cycle storage under the Parking Standards SPD.**

Response

The garden access for many properties in the city are constrained by having no side access for cycles, so this arrangement would not be uncommon. Whilst it would not be ideal, it would not be inconvenient for the residents to take their

cycles through the house. This would not be sufficient reason by itself to warrant refusing the application.

5.9 Loss of property value.

Response

This is not a material planning consideration.

Consultation Responses

5.10 SCC Highways – No objection

5.11 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:

- The principle of development;
- Design and effect on character;
- Residential amenity; and,
- Parking highways and transport.

6.2 Principle of Development

6.2.1 Following changes to legislation in April and October 2010, the government introduced the right to move between C3 (family dwelling) to C4 (small HMO) uses without planning permission. The C4 HMO classification was introduced to cover small shared houses within residential areas occupied by between 3 and 6 unrelated individuals who share basic amenities i.e. bathrooms, living rooms, kitchens. These permitted development use rights were removed in April 2012 when the Council confirmed a citywide Article 4 direction to control the problems associated with high concentrations of HMOs in local communities.

6.2.2 Policy H4 acknowledges that there is a need to maintain the supply of HMO housing whilst balance this against maintaining a sustainable mix of households within the community. The threshold test set out in section 1.1 of the Council's HMO SPD indicates that the maximum concentration of HMOs should not exceed 10% of the surrounding residential properties within a 40m radius. Although the property would no longer be available for families, the proposal would not be contrary to policy CS16 which prevents the loss of a family dwelling, given that the property can be readily converted back into use as a family dwelling with minimal changes. That said, a condition can be applied to give the property flexible use so it can be occupied by either a family or as a HMO. Furthermore, the 10% threshold limit allows for an element of lower cost and flexible housing within the community for lower income persons to benefit from, who can provide low paid services in the local economy, as well groups such as students, whilst the 95% of family homes remaining within the 40m radius retains a strong mix and balance of less transient owner occupiers living in the community.

6.2.3 As such, the principle of development to convert the property into a C4 HMO can be supported subject to an assessment of the planning merits in relation to the relevant policies and guidance.

6.3 Design and effect on character

- 6.3.1 The extension works being undertaken under permitted development (ground floor side extension and loft conversion/rear slope roof dormer) do not form a consideration as part of this application as they do not require planning permission. As such, the Council do not have any control over the visual and amenity impact of these works. Nevertheless, the side extension replaces the demolished lean-to on the same footprint. A planning condition is recommended to safeguard the existing boundary wall in order to protect the character and appearance of the street scene. 20 Gurney Road is a semi-detached property and the adjoining house has a matching front boundary wall and the majority of properties within the street have front boundary treatments.
- 6.3.2 From carrying out the 40m radius survey (**see Appendix 2**), the up to date records for the Electoral Register, Planning Register, Licensing Register, and Council Tax show that the resulting concentration of HMOs would be 5% (1 HMO out of 19 residential properties). Although the Council does not have a comprehensive database on the location of all HMOs in the city, these sources provide the Council's best known evidence. This would be the first HMO within the 40m radius survey area, however, not the first in the street as there is an existing HMO at 7 Gurney Road, and 17 Gurney Road was formerly a HMO according to Officers research.
- 6.3.3 The strategy of the Council is to support balanced communities and a sustainable mix of residential properties. The character of the area is predominantly family housing within this suburban street, however, the primary purpose of the HMO SPD guidance is to set a 10% threshold limit to determine where the introduction of HMOs into a local community would tip the sustainable balance and mix of households to the detriment of the local character. In this case, the majority of households (18 of 19 properties) within the 40m radius will remain as family homes so the introduction of the single HMO would not significantly change the character of the area.
- 6.3.4 The concerns raised by the Inspector under the example of the dismissed Bassett appeal decision from 2012 (appeal ref no. APP/D1780/A/12/2185123) at 30 Glen Eyre refers to a different character contextually within the city. This view is supported by an Inspector's decision in 2015 nearby at 10 Lumsden Avenue (**see Appendix 3**) within a more relevant context to the application site (appeal ref no. APP/D1780/W/15/3005204). In this particular case, the Inspector made a clear distinction in the contextual difference between appeal decisions in Southampton within suburban and outer suburban locations, and placed limited material weight on comparing the impact of introducing a new HMO within this suburban area (paragraph 15 refers). The Lumsden Avenue application (refused by the Planning Panel) is similar in circumstances to this application, as there were 90% family homes remaining in the 40m radius area, whereby the Inspector concluded that 'it seems on the balance of probabilities that the conversion would have little impact on the prevailing character hereabouts' (paragraph 14 refers), and 'no evidence that one conversion would have a significant or detrimental effect on this character' (paragraph 12 refers).

6.4 Residential amenity

- 6.4.1 The occupiers of 18 Gurney Road share a party wall with the proposed HMO. The bedroom and lounge/diner on the ground floor, 2 bedrooms on the first floor, and bedroom in the roofspace are adjacent to the party wall. The residents of the

HMO would have a different pattern of lifestyle as a household whom live independently of each other compared to a family household living a single unit. So the degree of harm should be assessed on whether the additional comings and goings at different times of the day and night would cause a significantly greater impact than the activities associated with a family household. The property can be occupied by upto 6 persons being a C4 HMO, whilst the family unit could be occupied by 2 adults and 2 to 3 children in a 3 to 4 bedroom house, where the children could be leading more independent lives as older teenagers or staying at home in their early 20s after college. The comings and goings would be mainly perceptible from entering and leaving the front door of the property, however, this impact would be limited as front door is situated on the far side of the party wall to 18 Gurney Road and on the otherside of the driveway from 22 Gurney Road. On balance, the scale, nature and intensity of the proposed HMO use, in terms of the noticeable disturbance from the higher levels of occupation and different lifestyle patterns compared to a family home, would therefore not be out of character with other properties in the street, and would not significantly harm the residential amenities of the neighbouring occupiers.

- 6.4.2 In allowing the Lumsden Avenue appeal, the Planning Inspector concluded overall that the introduction of a HMO would not adversely affect the amenity of the neighbouring residents (paragraph 14 refers). Due consideration was given to intensity of the comings and goings associated with the lifestyle of the residents being different to a daily pattern typical of family housing, and the transient occupation of the property. The impact on the semi-detached pair and other neighbour's from the intensity and patterns of comings and goings would be similar to this application. The Inspector also acknowledged that the different lifestyle of residents of HMOs must be balanced against the need for lower cost and flexible accommodation. The concerns are noted about noise disturbance from the occupiers through the party wall. It should be held that the use of the property and behaviour of the residents are treated as being in a reasonable manner.
- 6.4.3 In this instance, there are also further safeguards because a HMO licence would be required (covered by the second additional licensing scheme) and, therefore, the management and standards of property would be monitored by other teams in the Council. The Council has powers to serve a noise abatement notice where it considers that any noise nuisance caused by the residents is deemed as statutory noise nuisance. Not being a policy or legal requirement under Building Regulations and planning guidance to have a minimum level of soundproofing between existing party walls of residential properties, the applicant has offered to add sound proofing insulation to the party wall to improve sound proofing on the ground and first floors (secured by condition 6). There is no requirement under Building Regulations to provide a minimum level of sound insulation on the party wall for the loft conversion as the 18 Gurney Road have not converted their roof space.
- 6.5 Parking highways and transport
- 6.5.1 The parking standards set out in the HMO SPD (section 5) expects the 5 bedroom HMO to provide a maximum of 2 parking spaces within this high accessibility location to public transport being close proximity to Shirley High Street. The conversion would provide at least 1 off-street parking space on the existing driveway for a smaller car (albeit the depth of the space is 30cm under the standard 5m in an arrangement that already exists for the existing property) and

the unoccupied space on the street adjacent to the existing dropped kerb. That said, although 1 off-street parking is only available for a smaller sized car, this is still policy compliant as the Council does not have minimum standards. It is possible that not all residents will own a car, given the sustainable location in close proximity to good public transport links on Shirley High Street. Furthermore, it is unlikely that all the residents will own a vehicle.

- 6.5.2 One off-street parking space would be retained based on the existing frontage layout and a condition is recommended to retain the front boundary wall in the interests of protecting the character and appearance of the street scene. It is noted that the application form supporting this planning application indicates that two spaces could be achieved off-street. However there would be no parking gains by demolishing the front boundary wall to create additional on-plot parking because forecourt parking served by a widened drop kerb would result in the loss of existing on-street parking.
- 6.5.3 The Parking Standards SPD states that the provision of less spaces than the maximum standard is permissible, however, it should be demonstrated that there is sufficient kerbside capacity within the surrounding streets to absorb overspill parking. A parking survey was undertaken within a 200m radius of the site (in accordance with the methodology under the Lambeth model) between the hours of 22.20pm – 02.15am on Saturday 11th January 2020 and the hours of 22.10pm – 00.30am on Wednesday 15th January 2020 (the results summary is attached to **Appendix 4**). The survey found that 93 and 89 (out of 263 spaces) street parking were available, and only 138 and 143 (out of 246 spaces) off-road driveway spaces were occupied for the 226 properties in the survey area. Although this is only a snapshot of the street parking capacity, significant material weight can be given to the findings of the survey as they were carried out in accordance with the Lambeth Model (with photographic evidence). Therefore, it is considered that there is sufficient kerbside in the local streets to absorb the parking demand of the proposed HMO without adversely causing competition with the parking for nearby residents.
- 6.5.4 The Highway's Officer does not consider that the amount of trips generated and street parking demand associated with the HMO use would arise in an adverse impact to highways safety. Cycle storage facilities would need to be provided for 1 space per HMO bedroom. These facilities can be secured by condition through providing a lockable store in the rear garden. A condition can also be applied to require the provision of a suitable enclosure on the property frontage to screen the refuse bins.

7. Summary

- 7.1 In summary, the introduction of the HMO use is not considered to be harmful to the character and amenity of the area, and highways safety. The introduction of the HMO would not imbalance the mix of the family households in the community by retaining 95% of the properties as family homes, whilst this housing would also positively contribute towards the mix and range of smaller lower cost and flexible accommodation to benefit lower income and transient households within the local community. Furthermore, the comings and goings, including traffic and parking demand generated, associated with the HMO use would not be detrimental to the amenity and safety of the residents living in the area.

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)

SB for 11/02/20 PROW Panel

PLANNING CONDITIONS

01. Full Permission Timing Condition

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. Retention of communal spaces (Performance)

The rooms labelled kitchen, dining/living on the plans hereby approved shall be retained for use by all of the occupants for communal purposes only to serve the occupiers whilst in HMO use.

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

03. C3/C4 dual use (Performance)

The dual C3 (dwellinghouse) and/or 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 (under Class V, Part 3, Schedule 2 of the Town and County Planning (General Permitted Development) Order 2015). 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 to applicant: Whilst this planning permission allows occupation of the building as both a single dwelling and by a shared group, you are advised that an HMO that is licensed needs to have that license revoked before the building can lawfully be occupied again as a single dwelling.

04. Cycle storage facilities (Pre-Occupation)

Before the development hereby approved first comes into occupation, secure and covered storage for 5 bicycles shall be provided in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The storage shall be thereafter retained as approved.

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

05. Refuse & Recycling (Pre-Occupation)
Prior to the occupation of the development hereby approved, details of an enclosure for the storage of refuse and recycling, together with the access to it, shall be submitted to and approved in writing by the Local Planning Authority. The storage shall be provided in accordance with the agreed details before the development is first occupied and thereafter retained as approved. Unless otherwise agreed by the Local Planning Authority, except for collection days only, no refuse shall be stored outside the storage approved.
Reason: In the interests of visual amenity, the amenities of future occupiers of the development and the occupiers of nearby properties and in the interests of highway safety.
- Note to applicant: In accordance with para 9.2.3 of the Residential Design Guide (September 2006): if this development involves new dwellings, the applicant is liable for the supply of refuse bins, and should contact SCC refuse team at Waste.management@southampton.gov.uk at least 8 weeks prior to occupation of the development to discuss requirements.
06. Soundproofing (Performance)
The specification of the party wall sound proofing insulation as offered by the applicant in the email received by the Local Planning Authority on 29th January 2020, namely 25mm acoustic sound slab and an additional layer of 12mm plaster board on the party wall at ground and first floor level, shall be installed in accordance with the approved plans prior to the first occupation of the HMO use hereby approved and shall thereafter be maintained and retained.
Reason: In the interests of residential amenity and for the avoidance of doubt.
07. Retention Front Boundary Wall (Performance)
Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any Order amending, revoking or re-enacting that Order, the existing front boundary wall shall be retained and maintained for the lifetime of the use.
Reason: Use of the property as a 5-bed HMO could have a greater parking demand than the existing one on-plot space available and could result in demolition of the front boundary wall to create additional on-plot parking. Demolition of the front boundary wall would be out of keeping with the character and appearance of the semi-detached pair and the Gurney Road street scene.
07. 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.

POLICY CONTEXT

Core Strategy – (as amended 2015)

CS13	Fundamentals of Design
CS16	Housing Mix and Type
CS18	Transport: Reduce-Manage-Invest
CS19	Car & Cycle Parking

City of Southampton Local Plan Review – (as amended 2015)

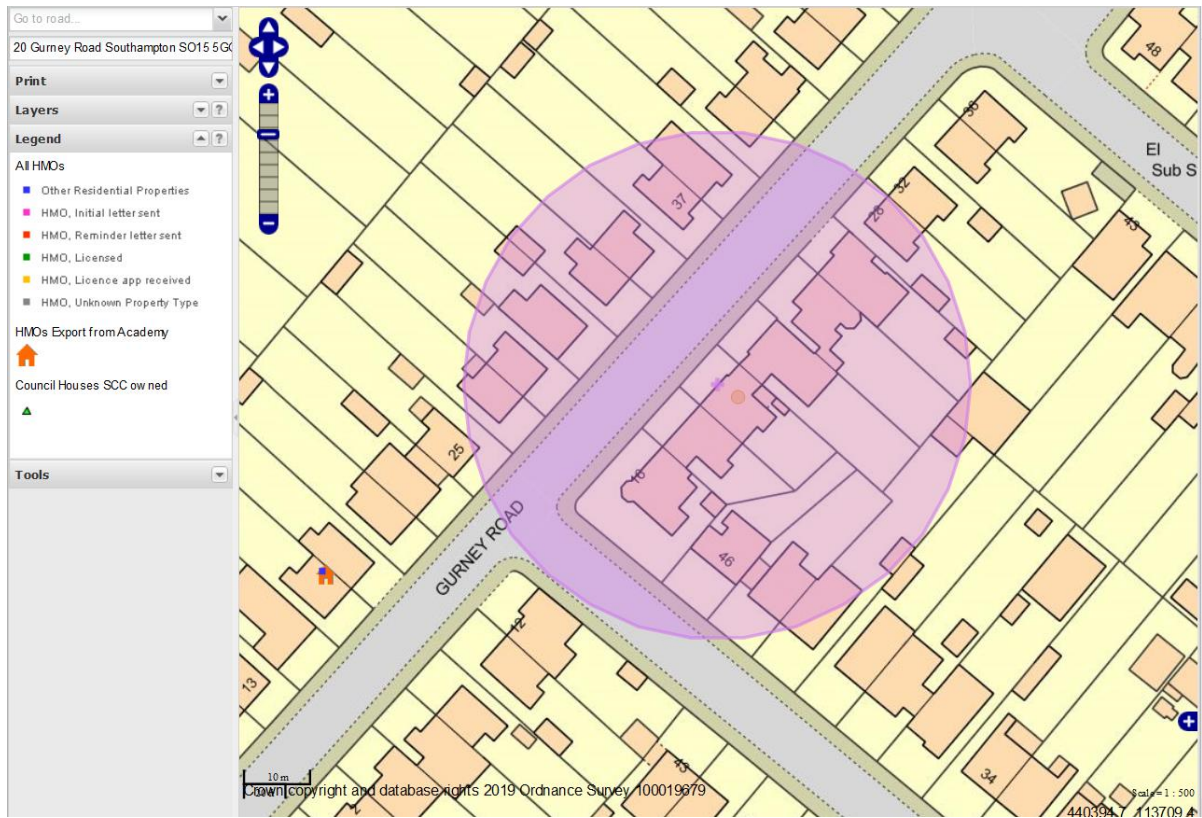
SDP1	Quality of Development
SDP5	Parking
SDP7	Urban Design Context
SDP9	Scale, Massing & Appearance
H4	Houses in Multiple Occupation
H5	Conversion to residential Use
H7	The Residential Environment

Supplementary Planning Guidance

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

Other Relevant Guidance

The National Planning Policy Framework (2019)



Street	Use type	HMO record/Planning History	Number of Residential properties
Gurney Road			
16			1
18			2
20		Proposed	3
22			4
24			5
26			6
28			7
25			8
27			9
29			10
31			11
33			12
35			13
37			14
39			15
41			16
Cunard Avenue			
42			17
44			18
46			19

Total residential = 19; Total HMOs = 1; HMO concentration = 5%



The Planning Inspectorate

Appeal Decision

Site visit made on 2 June 2015

by **Sukie Tamplin Dip TP Pg Dip Arch Cons IHBC MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18/06/2015

Appeal Ref: APP/D1780/W/15/3005204
10 Lumsden Avenue, Southampton SO15 5EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Dr Helen Smith against the decision of Southampton City Council.
 - The application Ref 14/01238/FUL/34228, dated 23 July 2014, was refused by notice dated 25 September 2014.
 - The development proposed is conversion of a 5 bedroom, three storey, semi-detached house into a house of multiple occupancy for up to 5 people (C3 to C4). The property is currently occupied by our daughter, a student at the University of Southampton. We are seeking the change of use to enable her to share it with other students, who will form a single joint tenancy.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from a C3 dwelling house to a 5-bed house in multiple occupation (HMO, class C4) at 10 Lumsden Avenue, Southampton SO15 5EL in accordance with the terms of the application, Ref 14/01238/FUL/34228, dated 23 July 2014, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: (Location plan, ground floor plan, first floor plan, third (sic) floor plan (attic bedrooms).
 - 3) The C4 HMO use hereby approved shall not be occupied by more than 5 residents at any one time. Those rooms identified on the ground floor plan as 'Sitting Room', 'Dining Area' and 'Kitchen' shall be made available for all residents on a communal basis and not used as additional sleeping accommodation to serve the HMO use.
 - 4) Prior to the first occupation of the site as a C4 dwelling, details of cycle storage facilities to conform to the Local Planning Authority standard of one space per resident shall be provided and agreed in writing by the Local Planning Authority. Such parking and storage shall thereafter be permanently maintained for that purpose. For the avoidance of doubt this means that 5 secure, lockable cycle parking spaces shall be provided on site.
 - 5) Before the use commences details and a plan of the facilities to be provided for the storage, removal and recycling of refuse from the

premises shall be submitted to the Local Planning Authority and approved in writing. Such facilities as approved shall provide for a level approach and be permanently maintained and retained for that purpose. No refuse shall be stored on the public footpath or highway, except on collection days only, and shall be stored in accordance with the details to be approved.

Procedural matters

2. The proposal is described on the application form as set out in the preamble to the Decision. However it is described on the appeal form as "change of use from a C3 dwelling house to a 5-bed house in multiple occupation (HMO, class C4)". This is also the description on the Council's decision notice. Because planning permission goes with the land/building and contractual tenancy details are not relevant to the matters before me, I shall use this latter description in my determination of the appeal.
3. Southampton City Council have made a City-wide Article 4 (1) Direction requiring changes of use from Class C3 (dwelling houses) to Class C4 (Houses in Multiple Occupation (HMO)) to obtain planning permission. Any such proposals are assessed in accordance with the criteria in the *Houses in Multiple Occupation Supplementary Planning Document 2012 (SPD)*.
4. I have taken note of the *Southampton City Core Strategy Partial Review (CSPR)*, the *City Centre Action Plan (CCAP)* and the *Local Plan Review (LPR)* which were adopted in March 2015. However the amendments therein do not appear to supersede or alter the policies or any part of policies relevant to this appeal.

Main issue

5. The main issue in this appeal is the effect of the proposed change of use to an HMO on the character and amenity of the area, including parking demand, by reason of the level of use of the property.

Reasons

6. Lumsden Avenue is a broad street of spacious houses located to the north of Shirley Road, a busy shopping street that links the city centre with the town centre of Shirley. Most of the houses are semi-detached and set back behind forecourts or front gardens. Many, if not most of the houses have off-street parking, and the availability of on-street parking spaces is relatively limited. The street appears to be characterised by family housing but, because of its proximity to Shirley Road, it also appears to be used for commuter and shopper parking and the associated activity adds to its vibrancy.
7. Southampton is said to have a very high demand for HMO's to meet the needs of a large population of single people, including students, those on lower incomes, and young people. The Council's objectives appear to be to seek to ensure that these needs are met without unbalancing the housing mix. Thus, in out-of-city centres locations such as Shirley (Freemantle ward) the strategy is to ensure that a threshold of not more than 20% HMO's in any 40m radius is not breached. The Council acknowledge that the information about the numbers of HMOs is inconclusive but official records suggest that there is only one in the area relevant to this appeal. I see no reason to disagree that there is probably a very low number of HMOs in the surrounding area because there

were no obvious signs that the housing is intensively occupied. Accordingly permission would result in the percentage of HMOs rising to about 10% in the relevant 40m radius around the appeal site, well below the threshold of 20%.

8. But LPR Saved Policy H4 says that permission for conversion to an HMO will only be granted where a) it would not be detrimental to the amenities of nearby residents; b) it would not be detrimental to the overall character and amenity of the area and c) adequate amenity space is provided. In terms of the latter, there is no dispute that adequate amenity space is provided.

a) Parking

9. In respect of the criterion a) it is suggested that there is parking stress and that the HMO use would result in significant extra traffic generation. I agree that there is a possibility that 5 separate occupiers could each own a car and that this is likely to be greater than the car ownership associated with most large family homes. Only three cars could be accommodated within the site so there could be some additional parking demand. Nevertheless the Highway Authority does not object to the application though requested a parking survey, but that submitted by the appellant is disputed by residents. At the time of my visit there was some on-street availability, although the number of possible parking space has been reduced because residents park on their forecourts with and without a dropped kerb. It is unclear if the appellant's and the residents' parking assessments include both authorised and unauthorised off-street parking and in such circumstances I find the parking information inconclusive.
10. On the balance of probabilities it seems to me unlikely that the HMO would generate a need for 5 parking spaces because the site is close to a very high frequency bus route and within easy walking distance of a wide variety of shops and entertainment facilities. Moreover HMOs tend to be occupied by residents on lower incomes who would be less likely to own cars, particularly in this highly accessible location. Accordingly, I consider the proposal would be unlikely to cause parking stress in Lumsden Avenue and this weighs in favour of permission.

b) Character and amenity

11. In terms of criterion b), the concerns appear to be that the life style of future occupants and the greater intensity of occupation would lead to a reduction in the quality of the area. This tension is recognised by the Council in the SPD, but this also says that environmental problems, including poor refuse management, noise and anti social behaviour, high property turnover, neglected gardens and a lack of maintenance, are issues that tend to be exacerbated where there is a high concentration of HMOs. That would not be the case here.
12. I have no reason to doubt residents who say that the road is primarily occupied by families and this is demonstrated by the community spirit and events such as the street party. But there is no evidence that one conversion would have a significant or detrimental effect on this character. The area would continue to be mainly family housing and it is unlikely that anti-social activity would be tolerated. Moreover, although the housing in Lumsden Avenue and within the 40m radius appears to be generally in good or very good physical condition,

some of these environmental 'issues' are already part of the character of the housing hereabouts and are not exclusive to or as a result of HMO use.

13. I agree that the life style of residents of HMOs may be different to the daily pattern typical of 'family housing' but this must be balanced against the need for lower cost and flexible accommodation. Similarly, occupants of HMOs are likely to be transient, but this is probably also true of occupiers of other tenures such as the short-term letting of large houses such as No 10.
14. The strategy of the Council is to support balanced communities and a sustainable mix of residential accommodation. In this case, if permission were to be granted, up to 90% of the housing within the 40m radius would remain as family housing and it seems on the balance of probabilities that the conversion would have little impact on the prevailing character hereabouts. Moreover, because the premises are 3 storey there are further safeguards because a HMO licence would be mandatory and thus the management and standards of the property would be monitored by the Council. Accordingly, I conclude that permission for use as an HMO in these circumstances is not likely to cause serious harm to the amenity of residents in Lumsden Avenue and this too weighs in favour of permission.

Other considerations and findings on the main issue

15. A number of appeal decisions are relied upon to support the refusal but I have scant details of the circumstances and from what I have seen, the locations are not comparable. From my reading of the appeal decisions, most if not all appear to be concerned with proposals in suburban (or outer suburban) locations in Southampton and thus the character would be different. Neither does it appear that those appeals relate to 3 storey buildings and thus they would not be subject to mandatory licensing. Whilst Lumsden Avenue is very pleasant it is not tranquil as is the case with some of the cases brought to my attention. Moreover it is very accessible and well served by public transport, so that there is less need for car use. Accordingly I give only limited weight to these other decisions.
16. I understand the concerns of local residents but there is a need to ensure that communities are balanced and that the housing needs of the city are met. Moreover on the balance of probabilities it seems to me unlikely that the future occupants would undermine the character and amenity of this housing area. Accordingly I find that the proposed conversion of the property to an HMO would not result in unacceptable or adverse effects on the character and appearance of the area. Hence it would be in accordance with the strategic aims of CSPR Policy CS 16 which supports meeting housing needs, sustainable mixed communities and balancing the contribution of HMOs against potential harm.
17. Similarly the proposals would meet the requirements of LPR Policies SDP 1 and H4 and the SPD which all seek to ensure that providing for lower cost and flexible housing does not harm the amenity of residential areas and occupiers. In any event the C4 use could revert without planning permission to a C3 dwelling house and thus permission would not prevent this use in the future. The National Planning Policy Framework (the Framework) also says that planning should provide for the identified housing needs in their area.
18. Consequently my findings on the main issue weigh in favour of permission.

Conclusion and conditions

19. For the reasons I have given the appeal is allowed subject to conditions. In addition to the standard commencement condition it is necessary, for the avoidance of doubt, to list the approved plans. Conditions are also necessary to ensure that secure cycle storage is provided; this is in the interests of encouraging alternative forms of transport and reducing car use. Finally, in order to secure a high standard of amenity, controls are necessary to ensure that the number of occupants is capped and that there is provision for refuse storage.
20. But I do not agree that a condition which allows the 'flipping of use' between C4 and C3 is necessary. The GPDO¹ grants rights, which do not appear to have been altered by the Art 4 (1) Direction permitting a C4 HMO use to change to a C3 single family dwelling. Moreover permission has been granted because the circumstances that now prevail in Lumsden Road are such that HMOs form a small proportion of the housing stock in the relevant area. That situation could change and thus, in the event that the property reverts to a C3 use, the circumstances should be re-evaluated if a further period of C4 use is sought.

Sukie Tamplin

INSPECTOR

¹ Town and Country Planning (General Permitted Development)(England) Order 2015 Part 3, class L

H.M. LAND REGISTRY		TITLE NUMBER HP 224013	
ORDNANCE SURVEY PLAN REFERENCE	SU 4013	SECTION R	Scale 1/1250
COUNTY HAMPSHIRE		DISTRICT SOUTHAMPTON	

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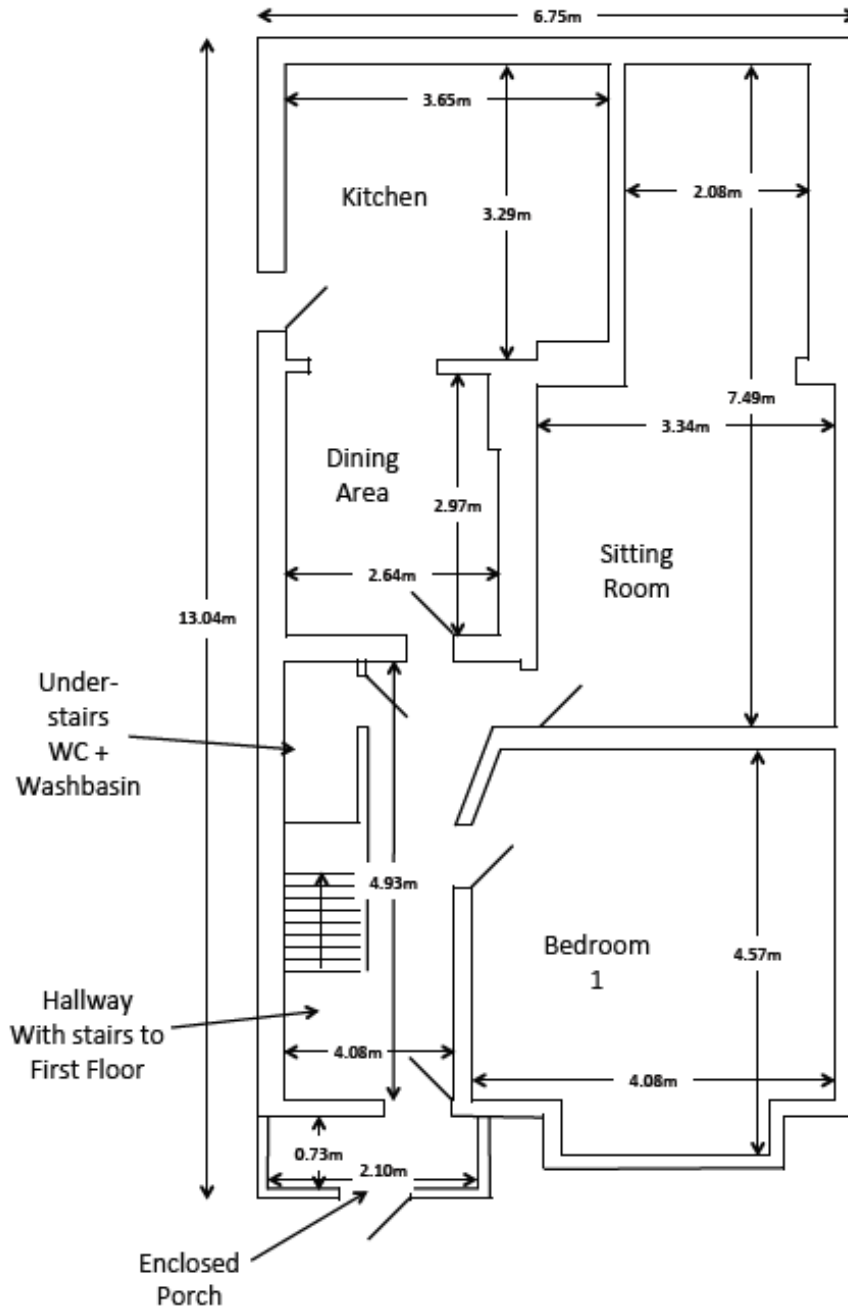
ADMINISTRATIVE AREA : SOUTHAMPTON



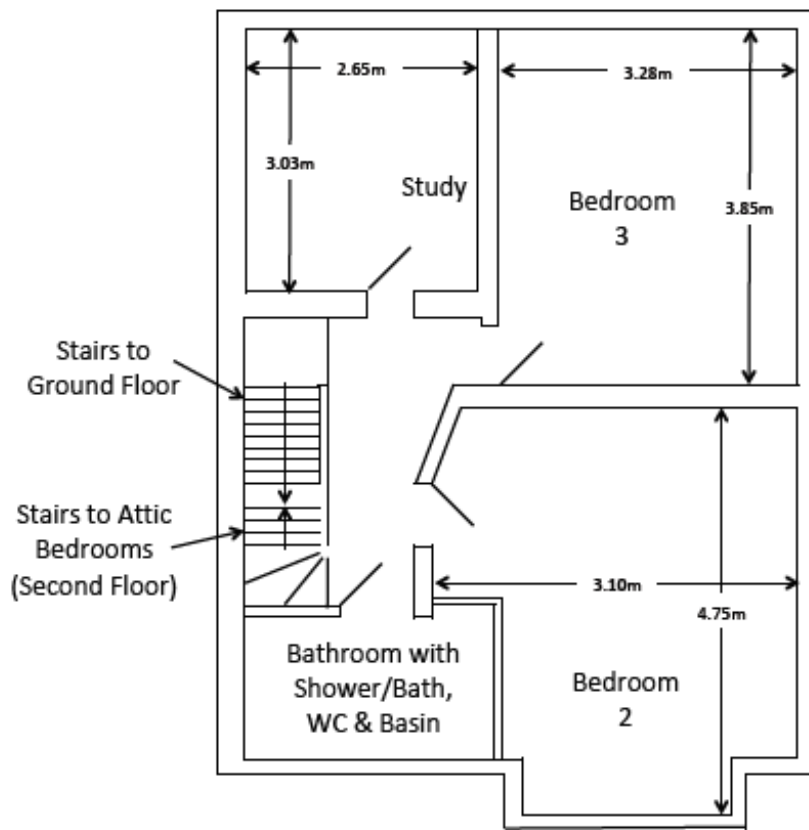
py is incomplete without the preceding notes page.

These drawings are not to the standard of those that would be provided by an architect. They are intended to show the layout and position of the rooms. The dimensions quoted are the maximum dimensions for each room. The scale is approximately 1:50 if the plan is printed on A3 paper.

Ground floor plan

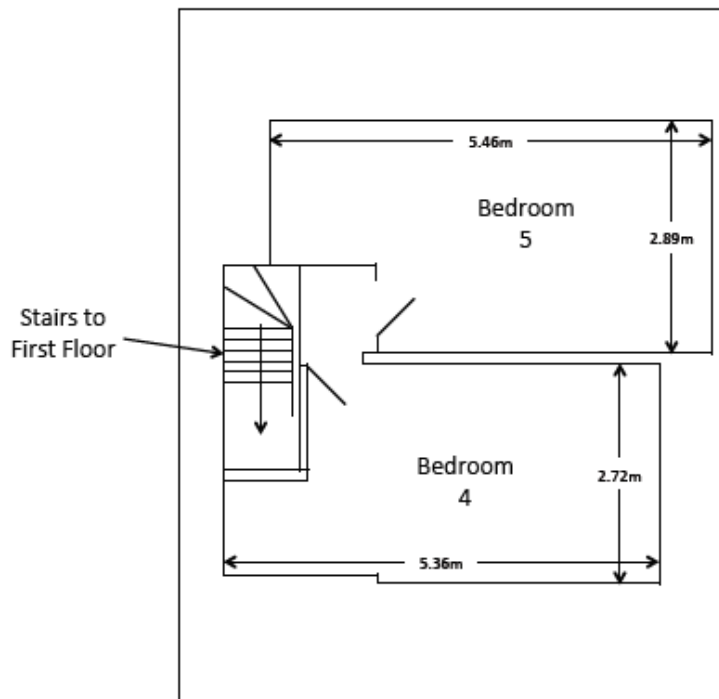


First floor plan



Each of these rooms has a Velux window in the roof.

Third floor plan (Attic bedrooms)



Section 5.

Conclusion

5.1

Following on from the survey carried out, Table 1 demonstrates that between the hours of 22.20pm – 02.15am on Saturday the 11th Of January 2020. Within a 200m radius of 20 Gurney Road there were 1360m of available raised kerb parking spaces, providing a potential of 263 spaces. During the survey period there were 170 parked vehicles leaving 93 on-road parking spaces available.

5.2

This equates to 35% available unrestricted parking spaces within the survey vicinity.

5.3

Secondly Table 2, this also demonstrates that between the hours of 22.10pm – 00.30am on Wednesday the 15th Of January 2020. Within a 200m radius of 20 Gurney Road there were 1360m of available raised kerb parking spaces, providing a potential of 263 spaces. During the survey period there were 174 parked vehicles leaving 89 on-road parking spaces available.

5.4

This equates to 34% available unrestricted parking spaces within the survey vicinity.

5.5

Thirdly Table 3, this demonstrates that between the hours of 22.20pm – 02.15am on Saturday the 11th Of January 2020. Within a 200m radius of 20 Gurney Road there were 226 existing properties facilitating 246 off road parking spaces, however only 138 of these spaces were used. Leaving a potential of 108 available spaces.

5.6

Finally Table 4, this demonstrates that between the hours of 22.10pm – 00.30am on Wednesday the 15th Of January 2020. Within a 200m radius of 20 Gurney Road there were 226 existing properties facilitating 246 off road parking spaces, however only 143 of these spaces were used. Leaving a potential of 103 available spaces.

5.7

When gathering the data for Table 3 and 4 only one off road parking space has been allocated for 20 Gurney Road. Once the renovation work has been completed there will be an additional parking space added to the front driveway, created off road parking for two vehicles.

5.8

Please note, in the addition to the two off road parking spaces available, there will also be a provision for safe bicycle storage. This provision will accommodate a total of 5 individual bicycles at the rear of the property.

5.9

Southampton City Councils Residential Development Parking document states that if a property is within a high accessibility area, which 20 Gurney Road is, a dwelling with four and above residents only needs to have 2 allocated parking spaces. This will be available from the two off road parking spaces at the property. However if three parking spaces are required, an additional vehicle parked within the surrounding area would not increase parking stress for local residents.

5.10

Finally, as demonstrated within Section 4 it is unlikely that residents would choose to own a vehicle given its excellent location to most amenities and the easily available public transport links. Due to the links with both Southampton General Hospital and The Royal South Hants Hospital the target residents are health care professionals. We know there is a high demand from staff at both locations for high quality shared accommodation. Both sites are within walking and cycling distance of the property. In light of the parking survey we believe the application for 20 Gurney Road would have no detrimental impact on resident parking.