

PLANNING APPLICATION OFFICERS REPORT



Application Number	19/02065/FUL	Item	03
Date Valid	13.01.2020	Ward	ST PETER AND THE WATERFRONT
Site Address	32 Wyndham Square Plymouth PL1 5EG		
Proposal	Change of use and alterations to form 8-bed HMO (Sui Generis) with associated refuse and cycle storage (Retrospective)		
Applicant	Mr Hedley Putnam		
Application Type	Full Application		
Target Date	09.03.2020	Committee Date	18.06.2020
Extended Target Date	02.04.2020		
Decision Category	Councillor Referral		
Case Officer	Mr Chris Cummings		
Recommendation	Grant Conditionally		



This application has been referred to Planning Committee by Councillor Tuffin. The applicant declined a request for an extension of time to the decision target date in order for it to be discussed at Planning Committee.

1. Description of Site

32 Wyndham Square is a Grade II, three-storey mid-terrace property located in the North Stonehouse Conservation Area. The front of the site faces onto Wyndham Square, with the rear of the site having a detached stable block fronting onto a service lane that runs adjacent to flats on Stoke Road.

2. Proposal Description

The original proposal was for:

Change of use and alterations to form 8-bed HMO (Sui Generis) and one-bed coach house (Class C3), with associated refuse and cycle storage (Retrospective)

Following assessment it was found that the rear coach house did not meet policy requirements in terms of floor space and occupant amenity was removed from the proposal. The revised description is as follows:

Change of use and alterations to form 8-bed HMO (Sui Generis) with associated refuse and cycle storage (Retrospective)

3. Pre-application Enquiry

None

4. Relevant Planning History

11/00253/EXUS - To establish existing use of property as C3 (c) residential (small religious community) - Lawful use certificate issued

19/02066/LBC - Change of use and alterations to form 8-bed HMO (Sui Generis) and one-bed coach house (Class C3), with associated refuse and cycle storage (Retrospective) - Pending consideration

5. Consultation Responses

Community Connections Department - No objection to proposal as main building exceeds the minimum levels required for an HMO license.

Local Highway Authority - No objection as proposal could be considered 'car-free' development due to surrounding area being within Controlled Parking Zone. Recommended a condition for cycle storage to be provided and advised that the property would be removed from obtaining parking permits.

6. Representations

Ten letters of representation have been received objecting to the proposal for the following reasons:

- Existing use is 7 bedrooms, not the 9 bedrooms stated
- Impact on on-street parking
- Doubt over whether HMO License should have been issued.
- CIL form says no new dwellings being created, however rear building is proposed to be a new dwelling.
- Loss of rear access if rear building is converted to a separate dwelling by foot or to cycle storage or for bin storage.
- No details of bin storage location and access route
- Level of bins required should be controlled
- Reduction of family homes in the area and impact on diversity of housing stock.
- Harm to the listed building through internal alterations of walls and insertion of en-suites
- High level of HMOs and single occupancy flats in the surrounding area
- Lack of large communal rooms
- Individuals living in an isolated way from the local community
- Unsustainable approach to housing in the area
- Knock-on impact on parking for visitors to the church

The HMO License operates separately from any planning permission. The HMO Licensing team are aware of the site and are dealing with a separate application for a new HMO License.

Letters of representation made reference to the use as an HMO beginning in 2011 through a 'loophole' in planning. An Article 4 Direction was introduced in September 2012 that required planning permission for a change of use from a Class C3 single family dwelling to a Class C4 small HMO of 3 to 6 occupants. There was no 'loophole' prior to this date, with Class C3 properties having permitted development rights to change from a single dwelling to a small HMO (Class C4)

without the need for any planning permission. Based on the information in the representations the use of the property as a 9 bedroom HMO began in 2011. This would fall under Sui Generis and not under Class C4 and would not be covered by the Article 4 Direction and would have required planning permission at the time.

The other matters raised will be dealt with in the analysis section of this report.

7. Relevant Policy Framework

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making, as of March 26th 2019, the Plymouth & South West Devon Joint Local Plan 2014 - 2034 is now part of the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts South Hams and West Devon within Dartmoor National Park).

On 26 March 2019 of the Plymouth & South West Devon Joint Local Plan was adopted by all three of the component authorities. Following adoption, the three authorities jointly notified the Ministry of Housing, Communities and Local Government of their choice to monitor at the whole plan level. This is for the purposes of the Housing Delivery Test and the 5 Year Housing Land Supply assessment. A letter from MHCLG to the Authorities was received on 13 May 2019. This confirmed the Plymouth, South Hams and West Devon's revised joint Housing Delivery Test Measurement as 163% and that the consequences are "None". It confirmed that the revised HDT measurement will take effect upon receipt of the letter, as will any consequences that will apply as a result of the measurement. It also confirmed that that the letter supersedes the HDT measurements for each of the 3 local authority areas (Plymouth City, South Hams District and West Devon Borough) which Government published on 19 February 2019.

Therefore a 5% buffer is applied for the purposes of calculating a 5 year land supply at a whole plan level. When applying the 5% buffer, the combined authorities can demonstrate a 5-year land supply of 6.4 years at end March 2019 (the 2019 Monitoring Point). This is set out in the Plymouth, South Hams & West Devon Local Planning Authorities' Housing Position Statement 2019 (published 26 July 2019). The methodology and five year land supply calculations in the Housing Position Statement are based on the relevant changes in the revised National Planning Policy Framework published 19 February 2019 and updates to National Planning Practice Guidance published by the Government in September 2018, subsequently amended by NPPG Housing Supply and Delivery published 22 July 2019.

Other material considerations include the policies of the National Planning Policy Framework (NPPF), Planning Practice Guidance (PPG) and National Design Guidance. Additionally, the following planning documents are also material considerations in the determination of the application:

Other material considerations include the policies of the National Planning Policy Framework (NPPF), the National Design Guide and guidance in Planning Practice Guidance (PPG). Additionally, the following planning documents are also material considerations in the determination of the application:

- Plymouth and South West Devon Supplementary Planning Document Consultation Draft (November 2019).
- Development Guidelines Supplementary Planning Document First Review (adopted 2013)
- North Stonehouse Conservation Area Appraisal and Management Plan

In terms of weight of the Supplementary Planning Documents (SPDs), the following points should be considered in making the decision:

- The Plymouth and South West Devon SPD has completed its consultation phase but can carry limited weight prior to its formal adoption. However, at best very limited weight should be given to provisions of the SPD that have objected to in a substantive way.

The adopted SPDs were set within the context of the previous development plan (Core Strategy). However, provisions of these SPDs would only carry weight where they are clearly consistent with the policies of the adopted Joint Local Plan.

8. Analysis

1. This application has been considered in the context of the development plan, the adopted Joint Local Plan, the Framework and other material policy documents as set out in Section 7.
2. The original proposal included the conversion of the rear detached building into a separate dwelling. This new dwelling did not meet the requirements of Policy DEV10 that all new dwellings meet the Nationally Described Space Standards by failing to meet floor space requirements and raising concerns over whether the floor to ceiling height was adequate to allow a good standard of accommodation for occupants. There were also significant concerns over the use of the rear service lane as the entrance to the dwelling as this would create an unsafe access that would not allow create inclusive accommodation.
3. This aspect has now been removed from the proposal and the rear building is proposed to be used as a cycle store and bin store.

Previous Use of Site

4. The main building is a former convent, with the use of it as a dwellinghouse under Class C3(c) established through the Certificate of lawful existing use I1/00253/EXUS that was issued in April 2011. This particular use class covers groups of up to six people living together as a single household. In this instance, the use was that of a small religious community of nuns and it was confirmed to fall within Class C3(c), with the submitted evidence showing a maximum of five occupants that had lived there.
5. There are permitted development rights for changes of use from Class C3(a),(b) and (c) to a small House in Multiple of Occupation of 3 to 6 occupants (Class C4). This was restricted in this area of the city in September 2012 by an Article 4 Direction that set a threshold level of HMOs and required planning permission to be sought for any change to a small Class C4 HMO.
6. Details contained in letters of representation have commented that the site has been in use as a large HMO of 9 occupants since 2011. An HMO of 9 occupants would not fall within Class C4, but would fall within Sui Generis. There is no permitted development allowance for a change of use to a Sui Generis HMO would require planning permission for a change of use regardless of the Article 4 Direction.
7. There is no planning history demonstrating any planning application for a change of use of the site to a large HMO and this application is a retrospective application to change the use of the property to an 8-bed HMO (Sui Generis). The existing use is not immune from planning permission being required, as this type of change of use has a 10 year period before it is out of the timeframe for planning compliance action and a lawful use certificate can be applied for.

8. There is no planning history to suggest any use of the rear building as any form of dwelling or ancillary accommodation of any kind.

Use as HMO

9. The use of the main building as residential dwelling is established however, as set out above, the lawful use of the property is not as a large house of multiple occupation. The application is therefore subject to the normal assessments of any HMO application.
10. The site is situated within the Article 4 Direction, which was introduced in September 2012 and the proposal must meet the requirements of Policy DEVI I of the Joint Local Plan, which sets a threshold level for new HMOs of 10% of the total dwelling stock within 100 metres of the application site. This threshold includes the application site within the calculation. Policy DEVI I states all HMOs and does not differentiate between small HMOS of 3-6 occupants (Class C4) or large HMOs, such as the application site (Sui Generis)
11. The Council's records show that there is currently a level of 3.33% HMOs in the surrounding area, which would increase to 4% including the application site. This is below the Policy threshold limit of 10% and accords with DEVI I.
12. Policy DEVI I also sets out that an HMO should not sandwich a C3 dwelling unit between two HMO properties. The Council's records show that no sandwiching will occur from the proposal.
13. The proposal is therefore considered to meet the requirements of Policy DEVI I in terms of HMO levels and community impacts.

Occupant Amenity

14. The main property is an existing dwelling and the requirements of Policy DEVI0 that new dwellings must meet National Space Standards are not applicable. However, DEVI0 does set out that HMOs will only be permitted where there it provides a good standard of accommodation and adequate communal space.
15. The use will require an HMO license from the Council and their recommended levels are considered a suitable guide to ensure the proposal is of an acceptable standard.
16. The main building provides approximately 156sqm of internal floorspace and is considered to be of an adequate size for that number of occupants. All bedrooms meet the HMO License standards for size, with the smallest being approximately 9sqm. All bedrooms have en-suite facilities and there is 13.15sqm shared lounge and kitchen area.
17. The Council's Community Connections Department raised no objections to the proposal. It was noted by Community Connections that adequate kitchen facilities need to be provided within the kitchen. This is a requirement of the HMO License, but this level of detail is not required for the planning approval.
18. Externally, the adopted Development Guidelines SPD recommends that a mid-terrace dwelling provides 50sqm of external amenity space. The emerging Draft SPD recommends a level of 15sqm per person, creating a level of 120sqm external amenity space. The site provides 80sqm at the rear, with an additional front garden space of 54.8sqm, creating a total of 134sqm. This exceeds both the well in excess of the recommended levels.

19. Overall, the HMO is considered to provide an acceptable level of accommodation for occupants and accords with Policies DEVI, DEV2 and DEV10 of the Joint Local Plan.

Neighbour Amenity Impacts

20. The use of the building as a dwelling has been established and there are no extensions or insertion of new windows. There is no significant overlooking of neighbouring properties from the existing windows and this will not be altered by the proposal.
21. It is considered that due to the property being within the HMO threshold limits, and for the reasons above, that there will be limited amenity impacts on neighbouring dwellings through noise, privacy or other impacts.
22. The main dwelling will be subject to an HMO License, which will provide contact points in case of any amenity impacts generated from the use and a route for action to be taken should the property fail to be managed in accordance with the license.
23. The existing residential use of the dwelling, lack of external alterations and the requirement to have an HMO License mean that it is, on balance, considered that there are no significant amenity impacts generated from the proposal in accordance with Policies DEVI and DEV2 of the Joint Local Plan.

Refuse Storage

24. The rear courtyard building is proposed to be used for storage of waste and recycling bins and this is considered a suitable location, screening it from view and keeping it away from the public highway. In order to protect the amenity of the surrounding area and prevent obstruction of the public highway it is recommended to add a condition on any approval requiring that the bin and recycling containers to be stored in this area at all times except collection day.
25. With the use of this condition the proposal will provide adequate bin storage and accords with Policies DEVI, DEV2 and DEV29 of the Joint Local Plan.

Highway Considerations

26. There is no off-street parking currently provided at the site, and it is not proposed to provide any either. The proposed use as an 8 bed HMO would be expected to provide 1 parking space per 2 bedrooms, creating a total demand of 4 spaces. The existing use of the property as Class C3(c) would have a parking demand of 2 spaces, leaving a shortfall of 2 spaces through the change of use to an HMO.
27. The Local Highway Authority were consulted on the proposal and raised no objection. They confirmed that although there is a shortfall of parking at the site it is within a Controlled Parking Zone in operation for more than 6 hours per day, 6 days per week and is within a sustainable city centre location with good links to public transport. In accordance with Paragraph 8.5.2 of the Development Guidelines SPD the proposal is therefore considered acceptable as car free development.
28. In light of the lack of vehicle parking it is necessary to provide cycle storage to promote sustainable transport measures. The Local Highway Authority advised that due to the lack of vehicle parking there should be a cycle space provided for each occupant, creating a total of 8

spaces. Space has been shown in the rear outbuilding for cycle storage and a condition is recommended to ensure this is provided within 3 months of any approval decision.

29. As the proposal will see an intensification of use and is within a controlled parking zone that is currently oversubscribed the Local Highway Authority has advised that the property will be excluded from obtaining permits and purchasing visitor tickets. An informative will be placed on the decision notice to advise the applicant of this.

Historic Considerations

30. There are no external alterations to the building and there is not considered to be any significant impact on the setting of the listed building or the conservation area through the use as an HMO. The building is an existing residential dwelling and will continue to be within residential use.
31. The refuse and cycle storage will be incorporated into the existing rear outbuilding and will not see any external alterations to the building.
32. There will be internal works to the main building, however these are considerations of the associated listed building consent 20/02066/LBC and do not form part of this application.
33. In terms of historic impacts the change of use is considered acceptable and accords with Policy DEV21 of the Joint Local Plan.

Intentional Unauthorised Development

34. Since August 2015 national planning policy requires consideration to be given as to whether intentional unauthorised development has been carried out. The policy applies to all relevant planning decisions made by Local Planning Authorities and Planning Inspectors. The policy was introduced largely as a result of Government concerns about the harm caused by unauthorised developments in the Greenbelt, but applies equally elsewhere.
35. The policy does not indicate exactly how much weight should be afforded to this in relation to the weight to be given to other material planning considerations. Neither does the policy clarify exactly what evidence is required to demonstrate the unauthorised development has been carried out intentionally.
36. It is clearly highly undesirable for any development to take place before planning permission has been properly sought, and obtained, in any circumstances. However, it should be noted that this new policy only applies where unauthorised development has taken place with the full knowledge of the person(s) undertaking the work that it lacks the necessary consent. In reality, given the difficulties in interpreting these points, it is considered that little or no weight can be given to this aspect, unless the Council has clearly indicated to the applicant that unauthorised development is being carried out, and that works have then continued beyond that point, or where there is some other compelling evidence that such work has intentionally been carried out.
37. Neither of these factors appear to apply in this case, and so it is considered that no weight should be afforded to this particular point in the determination of this application.

9. Human Rights

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

10. Local Finance Considerations

No charge under current schedule

11. Planning Obligations

The purpose of planning obligations is to mitigate or compensate for adverse impacts of a development, or to prescribe or secure something that is needed to make the development acceptable in planning terms. Planning obligations can only lawfully constitute a reason for granting planning permission where the three statutory tests of Regulation 122 of the CIL Regulations 2010 are met.

Planning obligations not required due to the nature and size of proposal.

12. Equalities and Diversities

This planning application has had due regard to Section 149 of the Equality Act with regard to the Public Sector Equality Duty and has concluded that the application does not cause discrimination on the grounds of gender, race and disability. The original proposal raised significant issues with regards to safe access for all (as required under Policy DEV10), however this element has now been removed.

13. Conclusions and Reasons for Decision

Following revisions to the proposal to remove the separate rear dwelling the proposal is considered acceptable. It is below the HMO level threshold and will provide a good level of amenity for occupants, will be subject to an HMO License and is considered suitable for car free development. Officers have taken account of the NPPF and S38(6) of the Planning and Compulsory Purchase Act 2004 and concluded that the proposal accords with policy and national guidance and is therefore recommended for conditional approval.

14. Recommendation

In respect of the application dated 13.01.2020 it is recommended to Grant Conditionally.

15. Conditions / Reasons

The development hereby permitted shall be carried out in accordance with the following approved plans:

I CONDITION: APPROVED PLANS

Proposed Floor Plans 01 - received 24/12/19

Existing Floor Plans 3665 GA01 - received 24/12/19

Existing Elevations and Barn 3665 GA02 - received 24/12/19

Site Location Plan 13012020 - received 13/01/20

Proposed Stable Floor Plans 02 Rev A received 09/03/20

Reason:

For the avoidance of doubt and in the interests of good planning, in accordance with the Plymouth & South West Devon Joint Local Plan 2014–2034 (2019).

2 CONDITION: CYCLE PROVISION

Within 3 months of the date of this decision the space shown on the approved plans shall be laid out for 9 bicycles to be securely parked individually. The secure area for storing bicycles shown on the approved plan shall remain available for its intended purpose and shall not be used for any other purpose without the prior consent of the Local Planning Authority.

Reason:

In order to promote cycling as an alternative to the use of private cars in accordance with Policy DEV29 of the Plymouth and South West Devon Joint Local Plan 2019 and the National Planning Policy Framework 2019.

3 CONDITION: BIN STORAGE

In accordance with the approved plans waste and recycling containers shall be stored in the detached rear building at all times except for collection days. The allocated bin storage area shall remain available for its intended purpose and shall not be used for any other purpose without the prior consent of the Local Planning Authority.

Reason:

To ensure adequate refuse and recycling storage and to prevent amenity impacts to the surrounding area or highway safety conflict in accordance with Policies DEV1, DEV2 and DEV29 of the Plymouth and South West Devon Joint Local Plan 2019 and the National Planning Policy Framework 2019.

INFORMATIVES

1 INFORMATIVE: (NOT CIL LIABLE) DEVELOPMENT IS NOT LIABLE FOR A COMMUNITY INFRASTRUCTURE LEVY CONTRIBUTION

The Local Planning Authority has assessed that this development, due to its size or nature, is exempt from any liability under the Community Infrastructure Levy Regulations 2010 (as amended).

2 INFORMATIVE: CONDITIONAL APPROVAL (NEGOTIATION)

In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 and the National Planning Policy Framework 2019, the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission.

3 INFORMATIVE: CYCLE STORAGE

In relation to the condition requiring secure cycle storage it is recommended that Sheffield stands are used to allow individual locking of bicycles.

4 INFORMATIVE: RESIDENT PARKING PERMIT SCHEME

The applicant should be made aware that the property lies within a resident parking permit scheme which is currently over-subscribed. As such the development will be excluded from obtaining permits and purchasing visitor tickets for use within the scheme.