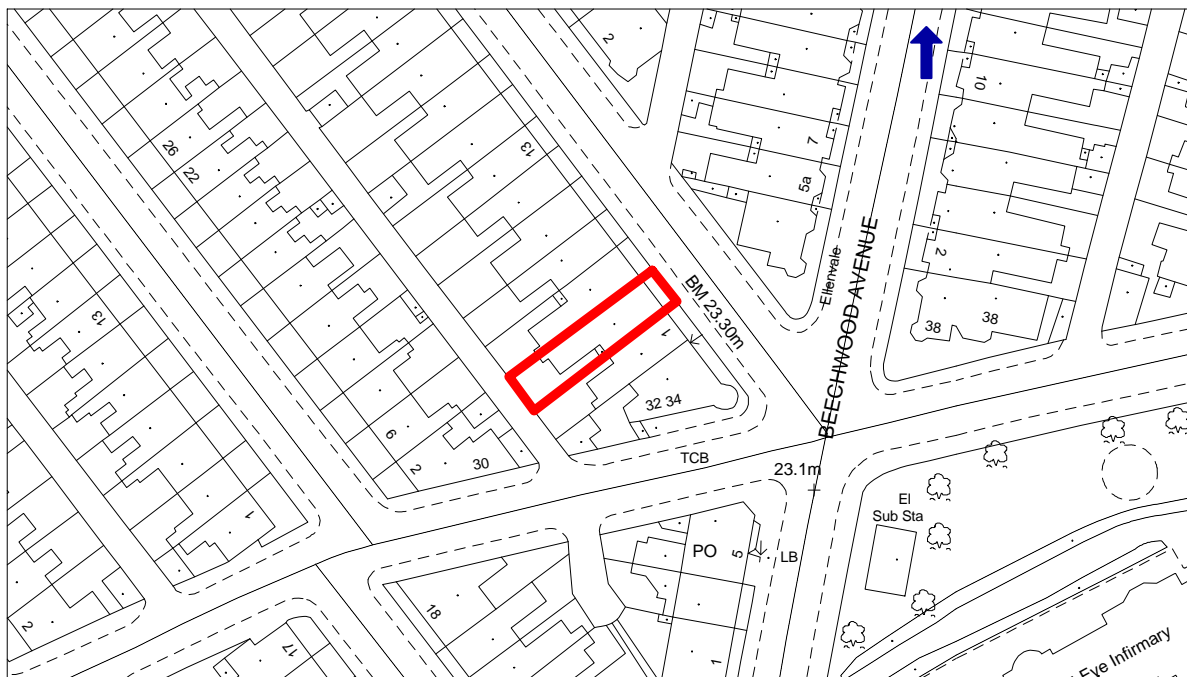


ITEM: 07

Application Number: 10/00715/FUL
Applicant: Mr Matthew Conyers
Description of Application: Change of use to house in multiple occupation (8 bedrooms)
Type of Application: Full Application
Site Address: 3 HILLSIDE AVENUE PLYMOUTH
Ward: Drake
Valid Date of Application: 11/05/2010
8/13 Week Date: **06/07/2010**
Decision Category: Member Referral
Case Officer : Jon Fox
Recommendation: Grant Conditionally
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OFFICERS REPORT

This application is being considered by Planning Committee as a result of a Member referral by Councillor Steve Ricketts. This Ward councillor is concerned about sustainability and overdevelopment.

Site Description

3 Hillside Avenue is a terraced house situated on the south western side of the road. The property backs onto a rear service lane. Building works have been carried out within the property, which is now effectively four storeys, comprising basement, ground floor, first floor and converted roof space (second floor). The existing layout is more or less what is shown on the 'proposed' layout floor plan, apart from the omission of a second window in bedroom 5 (first floor); a second window in the rear of bedroom 1 (lower ground floor) and a partition that has been erected, which separates the door at the top of the stairs from bedroom 8 (second floor roof space). There is a small shower room and toilet on the first floor as opposed to the enlarged shower room and toilet shown on the plans.

Proposal Description

Change of use to house in multiple occupation (8 bedrooms). The layout proposes accommodation on four levels. There is a kitchen/diner shown at the front of the building with bedroom 1/en suite to the rear; the ground floor has a lounge to the front with a bathroom and bedroom 2 behind that, and in the tenement there would be a store with bedroom 3 to the rear; the first floor has bedroom 7 to the front with bedroom 6 behind, and in the tenement there would be bedrooms 4 and 5; the roof space would accommodate bedroom 8.

Relevant Planning History

09/01921 – Change of use to house in multiple occupation (12 bedrooms). This application was withdrawn. The property was for a time used by 12 students without planning permission and this application was submitted retrospectively.

99/00424 - Change of use and conversion of dwellinghouse, to provide accommodation for eight students. This application was refused due to the intensification of use (primarily the conversion of the basement to accommodate three bedrooms) and its impact on residential amenity and the character of the area. It was also considered that the change of use would set a precedent for similar proposals that would undermine efforts to maintain small dwellinghouse stock and that the basement bedrooms would have a sub-standard level of lighting and ventilation and would be damp. As such it was considered that the lack of adequate amenity would lead to pressure on internal and external amenity areas would lead to noise and disturbance.

Consultation Responses

Highway Authority

Object due to lack of parking.

Housing

Consideration should be given to revising the layout of the lower ground floor to improve the means of escape from fire. However, it is recognised that sufficiently large and openable windows can be acceptable as a means of escape from fire. Housing also states that the lower ground floor kitchen/lounge area appears to be insufficient in both adequate levels of natural light and ventilation.

Public Protection Service

No objections subject to conditions relating to code of practice, noise and waste. An informative note on land quality is also recommended.

Representations

Four letters were received, which raise the following objections/concerns:-

1. Previous application for conversion of the basement was refused.
2. The building was turned into an unauthorised 12-bed student house.
3. The unauthorised works have affected the party wall with No.5 Hillside and may have affected No.1.
4. Parking in the street is almost impossible.
5. Noise and disturbance from this many occupants.
6. Loud music.
7. Cooking smells from the basement kitchen.
8. Risk of fire.
9. The property should be put back to a 5-bed student house with decent facilities, bedrooms and bathrooms.
10. To go from 5 beds to 8 beds is a dramatic increase in the amount of rooms, kitchen space, lounge space and bathrooms. The facilities are too small.
11. The layout lacks adequate space for kitchen facilities for the number of occupiers and the rooms in the roof space are too cramped.
12. The number of occupiers and associated comings and goings would be inadequately accommodated in the building and would lead to conditions of noise and disturbance that is harmful to the amenities of neighbours.
13. The number of cycle parking spaces is insufficient and the proposals lack alternative modes of transport to the private car, in the interest of sustainability, congestion and risks to highway safety.
14. The street has numerous short term residents who have no real interest in normal community life. HMOs (particularly students) lead to disturbances for neighbouring families and degradation of street life.
15. Parking is difficult in the street and permits should be limited to 2 per property and permit only hours should be extended.

Analysis

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.

Main Issues

The application turns on policies CS15, CS28 and CS34 of the Core Strategy of Plymouth's Local Development Framework 2007 and the Development Guidelines Supplementary Planning Document. The main issues are the impact on residential amenity, the character of the area, layout and highway safety and convenience. In these respects regard is had to the Local Planning Authority's refusal of a similar application in 1999.

Impact on Residential Amenity

With regard to residential amenity, this application, like the 1999 application, proposes eight beds. On that occasion three of the bedrooms were proposed in the basement and none in the roof space. The current proposals are for one bedroom in the basement and one in the roof space. This layout is considered to provide a more spacious property for the same number of persons and the intensity of use would be correspondingly less. Therefore, while the number of persons is the same the increased space within the property means that there is less pressure on communal areas and reduced potential for the intensity of use to spill out into areas that would lead to conditions of noise and disturbance for neighbours. In these respects the proposals are considered to be in accordance with policies CS15 and CS34 of the Core Strategy and SPD1.

Impact on Character of the Area

With regard to the character of the area, there are a number of houses in the street that are being used for student accommodation. It is likely that the majority of these did not require the submission of a planning application because they have been used by students living together as a single household, which in planning terms does not materially change the use of the house from that of a dwelling. Notwithstanding that, it is clear that this is a popular student area and this type of use does alter the character of the area. The evidence from one of the neighbours is that the property had been used for some time as a 5-bed student house. Therefore there is a history of student accommodation in the property. The increase from five persons to eight persons is not considered to be a particularly significant jump in numbers, in planning terms. In fact, while anything above six persons is often considered to be a material change from a dwelling, the most appropriate test is whether the use by eight students, living together as a single household, would actually constitute a material change of use. It is arguable that this would not be the case at 3 Hillside Avenue.

Against this it can be argued that the recent change in the Use Classes Order, which created a separate use class for HMOs, whereby 3 or more unrelated people living together constitutes HMO, means that Local Planning Authorities have more control over change of use of houses for student accommodation. With such control it can also be argued that the Local Planning Authority

should be using these new 'powers' to resist the spread of student accommodation.

Weighing up these issues, it is considered that the historic use of the property by five students, the relatively small increase in numbers (five to eight) and the question mark over whether the proposed use would require permission, is significant in this case and on balance it is considered that the proposals would not in themselves adversely affect the character of the area. In this respect it is considered that the proposals are in accordance with policies CS15, CS34 of the Core Strategy and SPD1.

On a separate note, it is understood that the new government intends to introduce a permitted right whereby planning permission will not be necessary to change a property from class C3 (dwelling) to C4 (HMO), except where the Authority has made an order to prevent such changes. While this prospective change to planning legislation is of interest, it does not carry weight in this case.

Layout of the House

With regard to the layout of the house, the main issue is the use of the basement, which was considered in 1999 to be a serious deficiency that adversely affected living conditions. The current application only proposes one bedroom on the ground floor, and while the kitchen/lounge area would enjoy less natural light than is desirable, there is another lounge on the ground floor, which means that occupiers would not be reliant on just one space for communal use. Natural ventilation in the basement could be augmented by mechanical ventilation. Therefore it is considered that the layout would not lead to conditions that would be detrimental to the living conditions of occupiers, and is in accordance with policies CS15 and C34 of the Core Strategy and SPD1.

Transport Considerations

From the transport point of view, the proposals would increase the level of occupancy without provision for off-street car parking. There is a permit parking scheme in the area, but this only operates for one hour a day and does not fully mitigate against increased parking demand. However, the site is close to the University and is for students only. Given the historic use of the property as a 5-bed student house, the proposals are not considered to significantly increase the demand for on-street car parking in the area and as such a refusal on these grounds is not considered sustainable, in accordance with policy CS28 of the Core Strategy. In accordance with a reduced need for car parking spaces, the proposed use would need to provide eight cycle parking spaces, not four as currently proposed.

Representations refer to works that affect neighbouring properties, which is a private matter that can be raised with the applicant in an informative note. This may also be a building control issue, but that is separate from the considerations for this planning application.

Equalities & Diversities issues

None.

Section 106 Obligations

This application does not qualify for a tariff contribution.

Conclusions

The proposals would formally add another student property to an area that has experienced a large increase in this type of use over the years. However, each case must be assessed having regard to its effect on the area and it is considered that the layout and level of use of the house would not lead to conditions of noise and disturbance for neighbours and would not significantly affect the character of the area. Furthermore, the lack of parking is not considered to be a sustainable reason for refusal. Therefore it is recommended that planning permission be granted, subject to conditions, which include restricting the ground floor store and lounge from becoming bedrooms in the future. The code of practice condition and noise verification conditions recommended by PPS are not considered appropriate.

Recommendation

In respect of the application dated **11/05/2010** and the submitted drawings, **Location plan, 1, 2, and accompanying design and access statement**, it is recommended to: **Grant Conditionally**

Conditions

STUDENT USE ONLY

(1) The property at 3 Hillside Avenue shall be occupied by bone fide students in full-time education only and shall not be occupied by any other persons at any time.

Reason:

The size and layout of the property, and the lack of parking, is considered appropriate for use by students but would be inappropriate for other, non-student purposes and other residential uses would require a higher level of off-street car parking provision, in accordance with policies CS15, CS28 and CS34 of the Core Strategy of Plymouth's Local Development Framework 2007 and Development Guidelines Supplementary Planning Document.

NO ADDITIONAL BEDROOMS

(2) No more than 8 bedrooms shall at any time be present in the property and these bedrooms shall be as marked on the approved plan (plan 2). No other part of the property, including the ground floor store, the ground floor lounge and the lower ground floor (except for the area shown as "bedroom 1"), shall at any time be used as a bedroom.

Reason:

The use of other rooms as bedrooms would lead to an over-intensification of use of the building resulting in harm to the amenities of neighbours and the character of the area, in accordance with policies CS15 and CS34 of the Core Strategy of Plymouth's Local Development Framework 2007.

MANAGEMENT PLAN

(3) The property shall not be occupied for the use hereby approved until a management plan for the operation of the student accommodation, which shall include contact details of the person to be contacted regarding any issues arising from the use of the building, has been submitted to and approved in writing by the Local Planning Authority and the management plan shall thereafter be adhered to.

Reason:

In the interests of neighbours' amenities and to provide a ready point of contact for any person who needs to address an issue in relation to the use of the property, in accordance with policies CS15 and CS34 of the Core Strategy of Plymouth's Local Development Framework 2007 and Development Guidelines Supplementary Planning Document.

CYCLE PARKING

(4) The property shall not be occupied for the use hereby approved until space has been laid out within the site in accordance with details previously submitted to and approved in writing by the Local Planning Authority for 8 bicycles to be parked.

Reason:

In order to promote cycling as an alternative to the use of private cars, in accordance with policy CS28 of the Core Strategy of Plymouth's Local Development Framework 2007.

RETENTION OF CYCLE STORAGE

(5) The secure area for storing cycles shown on the approved plan required by condition 3 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 that there are secure storage facilities available for occupiers of or visitors to the building, in accordance with policy CS28 of the Core Strategy of Plymouth's Local Development Framework 2007.

WASTE

(6) The property shall not be occupied for the use hereby approved until details of the siting and form of bins for the disposal of refuse to be provided on site have been submitted to and approved in writing by the Local Planning Authority. The refuse storage provision shall be fully implemented before the property is first occupied for the use hereby approved and henceforth permanently made available for future occupiers of the site.

Reason:

In order to ensure that adequate, safe and convenient refuse storage provision is provided and made available for use by future occupiers in accordance with policy CS34 of the Core Strategy of Plymouth's Local

Development Framework 2007 and Development Guidelines Supplementary Planning Document (SPD1).

INFORMATIVE - NOISE

(1) The applicant is advised that to ensure that the house in multiple occupation hereby permitted achieves a satisfactory living standard and does not experience unacceptable levels of noise disturbance all rooms should be constructed in accordance with BS8233:1999 so as to provide sound insulation against externally generated noise. The good room criteria should be applied, meaning there should be no more than 30 dB LAeq for living rooms (0700 to 2300 daytime) and 30 dB LAeq for every individual study bedrooms (2300 to 0700 night-time), with windows shut and other means of ventilation provided. Levels of 45 dB LAf.max should not be exceeded in bedrooms (2300 to 0700 night-time).

INFORMATIVE - LAND QUALITY

(2) The Council's Environmental Protection Officer (Land Quality), Public Protection Service, advises that the site is close to a hospital and there is the possibility of contamination of the site as a result. It is therefore recommended that appropriate assessments and site investigations are carried out and, depending on the results, appropriate measures put into place to remediate any contamination affecting the site.

INFORMATIVE - PROPERTY RIGHTS

(3) Applicants are advised that this grant of planning permission does not over-ride private property rights or their obligations under the Party Wall etc. Act 1996.

INFORMATIVE - VENTILATION AND ESCAPE FROM FIRE

(4) The applicant is advised to:

- a) consider the use of mechanical ventilation to improve ventilation in the basement kitchen/diner area; and
- b) provide openable windows of an adequate size in the lower ground floor bedroom to permit escape in the event of fire.

INFORMATIVE - EXCLUSION FROM PERMIT PARKING ZONE

(5) The applicant is advised that the property lies within a resident permit parking scheme which is currently over-subscribed. As such the property will be excluded from purchasing permits or visitor tickets for use within the area.

Statement of Reasons for Approval and Relevant Policies

Having regard to the main planning considerations, which in this case are considered to be: the impact on residential amenity, the character of the area, layout and highway safety and convenience, the proposal is not considered to be demonstrably harmful. In the absence of any other overriding considerations, and with the imposition of the specified conditions, the proposed development is acceptable and complies with (a) policies of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and supporting Development Plan Documents and Supplementary Planning

Documents (the status of these documents is set out within the City of Plymouth Local Development Scheme) and the Regional Spatial Strategy, and (b) relevant Government Policy Statements and Government Circulars, as follows:

- CS28 - Local Transport Consideration
- CS34 - Planning Application Consideration
- CS15 - Housing Provision
- SPD1 - Development Guidelines