

PLANNING APPLICATION REPORT



ITEM: 05

Application Number: 13/00101/FUL

Applicant: Mr Joseph McParlin

Description of Application: Retrospective application for change of use from 6 bedroomed house in multiple occupation (HMO, Use Class C4) to 8 bedroomed house in multiple occupation

Type of Application: Full Application

Site Address: 1 SEATON AVENUE PLYMOUTH

Ward: Compton

Valid Date of Application: 30/01/2013

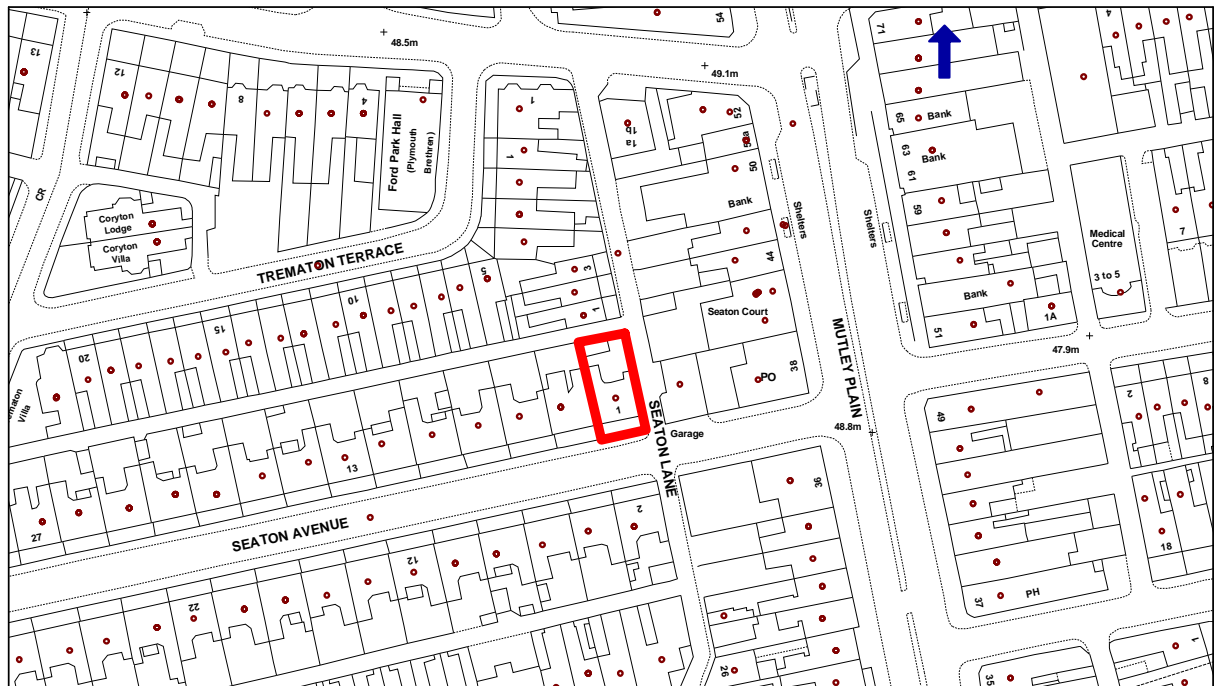
8/13 Week Date: 27/03/2013

Decision Category: Member Referral

Case Officer : Liz Wells

Recommendation: Grant Conditionally

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Committee referral

This application has been referred to Planning Committee by Councillor Ball.

Site Description

1 Seaton Avenue is a three-storey end-terrace residential property located close to Mutley Plain in the Compton Ward of the city. The property is a large period property with service lane to side and rear with a modest sized yard with garage. The proposed use had already been implemented at the time of the officer's site visit.

Proposal Description

Retrospective application for change of use from 6 bedroomed house in multiple occupation (HMO, Use Class C4) to 8 bedroomed house in multiple occupation.

Note: the proposal description has been amended during the course of the application following clarification from the applicant that prior to September 2012, the property was being used as an HMO for up to 6 people. The application was described by the Council as the 'change of use from 6 bedroom dwelling house (use class C3)', although the application form submitted stated 'Increase from a 6 bedroom to an 8 bedroomed licenced HMO i.e. to regularise from 6 to 8 beds (retrospective)'.

Pre-Application Enquiry

None

Relevant Planning History

No planning history for this property.

Recent planning application on 7-9 Seaton Avenue for 'Change of use, conversion and alteration of care home to form two student houses in multiple occupation (containing a total of 17 bed spaces) including removal of rear extensions to No.9 and formation of parking area and associated bin and cycle storage' 12/00676/FUL. Application REFUSED and appeal DISMISSED.

Consultation Responses

Transport – no objections to the proposal based on amended description. Recommended conditions for restriction to student accommodation and cycle storage provision for a minimum of 4 bicycles. If the applicant is not willing to accept the condition to restrict occupation to bona-fide students only then an amended response will be provided with a recommendation to refuse, due to the increase in parking demand based on the increase of non-student occupied rooms. Alternatively, if the applicant can provide an additional off-street parking space in the rear garden then the shortfall will be the same as the former 6 bed HMO and the status-quo, in terms of shortfall of 2 spaces, will be retained, thus making the proposal acceptable without the need to restrict occupation .

The property lies within a resident permit parking scheme which is currently oversubscribed and as such the property would be excluded from obtaining permits and visitor tickets for use within the scheme.

Public Protection Unit - Any nuisance or anti-social behaviour emanating from the future proposed development would normally be addressed through legislation. Should the application be granted, there is a requirement for an adequate management plan, to control the future operation of the accommodation and to address any issues that may be created by future tenants. A copy of this management plan should be submitted to the Local Planning Authority and so a condition and informative are recommended that support this requirement.

Regarding conversion/ construction management, because the proposed development involves potentially noisy and disruptive activities a condition is recommended to help mitigate any effect on nearby residents.

Regarding Land quality, due to the narrow scale and scope of the development and/or limited record of previous potentially contaminative land use on site and in the near vicinity, no further information is required.

Conditions recommended for Management Plan and hours of construction and demolition.

Representations

Two letters of representation received, objecting to the application on the basis of:

- Noise nuisance from existing properties used in multiple occupation, social club to rear and young people returning from bars on Mutley Plain and proposal will add to this.
- Parking as students bring their cars and sometimes leave them on the street unused for the whole term. Also from visitors to the property.
- Evidence collected and the fact that the Article 4 direction has been issued to reason enough for the change of use to be turned down.
- Visual impact, maintenance and refuse – due to absentee landlords – for example blankets at windows and overgrown gardens, and some bins left permanently out Council could issue specific conditions.
- Single person/residence imbalance and transient residents – we do not want the transient community to number more than the permanent community – residents would welcome property being converted into flats for families.
- The application is retrospective as students are already renting rooms in the house.

Analysis

The main considerations in assessing this application are the impact on the character and appearance of the area, highway considerations, the impact on neighbouring properties' residential amenity.

This application turns upon the NPPF, policies CS01 (Development of Sustainable Linked Communities), CS15 (Overall Housing Provision), CS22 (Pollution), CS28 (Local Transport Considerations), and CS34 (Planning Application Considerations) of the Council's Core Strategy, adopted April 2007, Development Guidelines Supplementary Planning Document (SPD) and the draft revised 'First Review' Development Guidelines SPD (with appropriate weight attached).

Character and appearance of the area

For the purpose of this report it is noted that the application site lies in the recently designated Article 4 direction area which requires changes of use of dwellings C3 to C4 to require planning permission from the Council. This came into effect from 14 September 2012. A C4 dwelling is one used for 3 to 6 people living in multiple occupation. However, this application is for 8 people living in multiple occupation which in planning terms is *sui generis* meaning in a Use Class of its own. As such, whilst the Article 4 Direction and draft SPD guidance provides a useful evidence base and guidance in terms of changes to the character of a neighbourhood, appropriate weight needs to be given to the fact that this proposal is not for a C4 dwelling. In addition, the applicant has confirmed that the property was used in multiple occupation for up to 6 people prior to the Article 4 Direction coming into effect. It could therefore be argued that the proposed change of use intensifies the existing use but does not represent the loss of a single dwellinghouse use.

The property is large, arranged over three floors and submitted plans show that it was previously used as a six bedroom house. An HMO license application was received by the Private Rented Team of the Housing Service of the Council in June 2012 and has been inspected several times by that team. An officer has confirmed from their last visit on 11 May 2012, the property was occupied by maximum of 4 persons.

Due to the size of properties in this terrace, a number have already been sub-divided into flats or used in multiple occupation. From the data available to the Council 30-50% of the properties in the street and within 100 metres of the property are already in some form of multiple occupation. The letter of representation raises concern about the balance of permanent and transient residents in the street but suggests that other forms of sub-division would be acceptable to residents.

In the recent appeal decision for 7 to 9 Seaton Avenue, which related to a change of use of a former care home to a 17 bed HMO, there was no dispute over the loss of family housing due to the previous care home use, and the inspector considered that the only issue that led him to dismiss the appeal was on the basis of the management arrangements put forward by the applicant.

The Inspector's report stated:

- I. The provision of student accommodation to keep pace with the expansion of the University clearly poses a challenge, given the University's city centre location and the predominance of densely developed residential areas around it. The appeal premises are well located in relation to the University, to public transport and to local shopping facilities on Mutley Plain. The submitted plans indicate that the premises would be converted from the former nursing home use to high standard self-contained student accommodation. The street scene of terraced houses would be improved by taking away a rear extension and by reinstating a front entrance to one of the two former houses that comprise the property. Furthermore, I acknowledge that students do bring considerable benefits to the City's economy, and bring a vibrancy that furthers one of the main aims of the

Core Strategy, which is to build balanced and mixed sustainable communities.

2. Notwithstanding these merits of the scheme, the proposal would result in just over one third of the properties in Seaton Avenue being in multiple occupation. I share the concern of local residents that the scale of the proposal that would create accommodation for 17 students has the potential to generate noise and disturbance that would be out of character with the Avenue.

There is no doubt that the proposed 8 bedroom HMO is likely to result in more comings and goings than a 6 bedroom HMO. As commented by the Inspector in the recent appeal decision, it would be wrong to assume that all students are noisy and that the maintenance and repair of the property would necessarily decline as a result of its change in use. Indeed the property appeared to be in very good state of repair externally at the time of the site visits and scaffolding on the rear elevation was to address maintenance issues with roof vents. In light of the Inspector's comments, a management plan has been invited to support this application.

The submitted Management Plan from the applicant states:

- *The property is Managed by a well established and respected local property Management agent, Chris Shorey and Co. Lettings (Established 1982, employing 15 staff) to undertake the day to day letting and Management of this HMO. They are members of ARLA, NFOPP and are accredited by Plymouth University and the National Landlords Accreditation Scheme, which is in turn recognized by Plymouth City Council. There are strict rules governing Anti Social Behavior and management. However, I fully understand that the ultimate responsibility for the management of the above property lies with me as License holder and I have a good working relationship with the agency, being told immediately of any issues regarding this rented property.*
- *All of the immediately neighbours have been informed in writing of this arrangement and have been given their office contact details, including an emergency number for out of office hours contact. This is in order to raised any issues that might occur at the property such as Anti Social Behavior, Refuse and Maintenance or any other nuisance issues. A record of any such incidents is to be kept by the agency for any future reference, as per the HMO guidelines for effective management.*
- *Their Tenancy Agreement/Contract expressly states that "Anti Social Behaviour, Refuse will NOT be tolerated and that breaching any such conditions of the Tenancy can lead to possible eviction from the property, loss of their security deposit and potentially, legal action being taken against them".*
- *The required Notices informing Tenants of their duties with respect to Anti Social Behaviour Code, as well as All of the relevant paragraphs copied from their own signed Tenancy Agreements are prominently displayed in the communal area of tis property, as required by the HMO management guidelines.*

- *Also prominently displayed in the communal areas are the exact Refuse Collection Arrangements, including the necessity to replace all refuse and recycling bins back into the rear storage area as soon as possible after they are emptied. These notices are in place to ensure that the use of this HMO does not affect other adjacent residents in the street.*

A copy of the relevant paragraphs copied from the Tenancy Agreement, Anti Social Behaviour Code and Letting company contact details have also been submitted as information to support the planning application.

Details of the management could be secured by condition.

Highways considerations / Parking

The property has an existing garage and the application form indicates that there is provision for 8 motorcycles and 8 bicycles to be parked, however no dedicated cycle/motor cycle storage was observed during the site visit and the garage was in use for storage by the applicant. However, with minor alteration, the garage could be converted for the secure storage of bicycles with the subsequent loss of the single off-street car parking space.

The Highways Officer has given the following explanation of parking demand for the property as it was before the change to the proposed 8 bed roomed HMO, and on the basis of the recommended conditions for a restricting the accommodation to use by student and the provision of secure cycle storage provision for a minimum of 4 bicycles, has not raised objection to the proposal. The Transport consultation response states:

Currently 1 off-street parking spaces exists in the form of a garage with access off the side access lane. The applicant has suggested storage for 8 cycles will be provided.

The main issue in terms of impacts on the highway network, in this instance, relates to that of parking demand. The property lies within a resident permit parking scheme which is currently oversubscribed and as such the property would be excluded from obtaining permits and visitor tickets for use within the scheme.

The permit scheme operates between 0800-1000 Monday to Saturday and as such in accordance with the City Council Development Guidelines SPD the applicant must make a contribution towards meeting parking demand. For a HMO in a short term permit zone, such as this, an off-street provision of 1 space per 2 rooms is required. This would result in the existing HMO generating a parking demand of 3 cars.

The proposed 8 bed HMO would require 4 spaces so is considered to be an intensification of the use compared to the 6 bed HMO. This in itself would be reason to refuse the proposal as even though one space is available the parking demand is not being met.

However, although the application proposal does not suggest that the 8 bed HMO is for student use only it is noted from the application form that the 8 rooms, subject to this retrospective application, are currently let to students. Student HMOs have a lower parking requirement in short term permit zones where a 50% reduction of the standard is

acceptable, to comply with the SPD requirements. This would result in a parking provision of 2 off-street parking spaces. In this regard the actual parking demand is reduced from that of a standard 6 bed HMO.

As the application form makes reference to the current occupation by students it is deemed appropriate to secure and restrict this by way of a planning condition. The required parking provision of 2 spaces is less than a standard HMO and with the use of the garage there is only a short-fall of 1 space. However, this is still an improvement from the current shortfall of 2 spaces (based on a 6 bed HMO).

As above the applicant will provide cycle storage for 8 cycles. The minimum requirement is 1 space per 2 rooms so a 100% provision is commendable. Again a condition should be attached to any grant of consent to secure the minimum provision for 4 cycles.

I have no objections to the proposal but if the applicant is not willing to accept the condition to restrict occupation to bona-fide students only then an amended response will be provided with a recommendation to refuse, due to the increase in parking demand based on the increase of non-student occupied rooms.

Alternatively, if the applicant can provide an additional off-street parking space in the rear garden then the shortfall will be the same as the former 6 bed HMO and the status-quo, in terms of shortfall of 2 spaces, will be retained, thus making the proposal acceptable without the need to restrict occupation.

Details and provision of secure cycle storage could be secured by condition, but due to the retrospective nature of the application, the condition has been amended to ensure the provision is made within 2 months of the date of decision. The applicant has verbally agreed to accept the condition restricting the use to students.

The property would be removed from the list of eligible properties for applying for the residents permit parking scheme that operates in the street.

Impact on Neighbouring Residential Amenities

Neighbouring residents have raised concerns that the development will have a demonstrably harmful effect on noise levels, will increase incidences of anti-social behaviour and impact on current problems with refuse. As previously discussed, it is considered that this could be substantively covered by the management plan which can be secured by condition.

The applicant has reported that there was a complaint about noise in October 2012 that was dealt with and the tenant involved was evicted.

As the work is retrospective, the recommended condition from the Public Protection Unit relating to hours of construction and demolition seems unnecessary as no further internal works are recommended, however as there is potential for further works in the rear yard to accommodate cycle storage, this condition is recommended to be applied to cover such works.

Living Conditions

The proposal will involve very few alterations to the internal fabric of the building. The period nature of the property means all rooms will be light and airy. All bedrooms will be of a sufficient size and communal areas will provide a full range of facilities. The accommodation will provide a decent standard of living for all future occupiers.

Other issues

The rear yard area has plenty of room for storage of refuse bins. The Management plan advises that refuse and recycling bins are to be stored in this rear yard area plan and this could then be covered by a condition.

The retrospective nature of the application can be given little weight as it must be determined on its merits in line with the adopted planning policies and guidelines.

New Homes Bonus:

Local finance considerations are now a material consideration in the determination of planning applications by virtue of the amended section 70 of the Town and Country Planning Act 1990. Using the calculator created for this purpose does not account for properties over 5 bedrooms, but the increase in bedrooms generally increases the Council Tax by one band, suggesting this development would generate a total of approximately £959 in New Homes Bonus contributions for the authority if approved over a 6 year period. However, this calculator does not take account for the fact that a change of use does not necessarily imply that the Valuation Officer will re-band the property and is not adjusted for the potential reduction in Council Tax applied to student properties. It is considered that the development plan and other material considerations, as set out elsewhere in the report, continue to be the matters that carry greatest weight in the determination of this application.

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.

Section 106 Obligations

Not applicable to this application.

Equalities & Diversities issues

None

Conclusions

The inspector who presided over the 7-9 Seaton Avenue appeal identified management shortcomings as the reason for turning down the appeal. That appeal decision is a material consideration in the context of this application, and the judgement of the Inspector to not turn down the appeal on HMO concentration grounds suggests that this application should, on balance, be recommended for approval, subject to conditions. Conditions recommended include: details of the management plan, cycle storage to be provided within 2 months and limiting the number of occupants to the 8 applied for.

Recommendation

In respect of the application dated **30/01/2013** and the submitted drawings site location plan, floor plans including site layout on ground floor and rear yard as current and floor plans existing before, it is recommended to: **Grant Conditionally**

Conditions

APPROVED PLANS

(1) This permission relates to the following approved plans: site location plan, floor plans including site layout on ground floor and rear yard as current and floor plans existing before.

Reason:

For the avoidance of doubt and in the interests of good planning, in accordance with policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

OCCUPATION RESTRICTION - STUDENT ACCOMMODATION

(2) The occupation of the accommodation hereby approved shall be limited to students in full-time education only.

Reason:

The accommodation is considered to be suitable for students in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, but its occupation by any other persons would need to be the subject of a further planning application for consideration on its merits.

BEDROOMS

(3) No more than 8 rooms at the property shall be used as bedrooms. Only the numbered rooms on the approved floor plans shall be used as bedrooms, unless the Local Planning Authority gives written approval to any variation of this requirement.

Reason:

The number of bedrooms is as shown in the application and is considered to be the maximum that can reasonably be accommodated at the site. The layout, together with the use of the remaining rooms for communal facilities, has been assessed and considered acceptable in planning terms and any other arrangement would need to be assessed on its merits. This condition is in accordance with policy CS15 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

MANAGEMENT

(4) The management plan for the operation of the accommodation, including the contact details (including postal address, email address and telephone number) of the person to be contacted regarding any issues arising from the use of the building or its curtilage and a commitment to keep this information up to date, submitted to the Local Planning Authority on 20 February 2013 shall be adhered to strictly at all times, unless otherwise agreed in writing by the Local Planning Authority.

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, CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and Plymouth's adopted Development Guidelines Supplementary Planning Document 2010.

REFUSE STORAGE

(5) Within 2 months of the date of decision, space shall be laid out within the rear yard area of the site for refuse storage and shall remain available at all times 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 facilities in accordance with policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

CYCLE PROVISION

(6) Within 2 months of the date of this decision notice, space shall be laid out within the site for 4 bicycles to be securely parked in the rear yard and this cycle storage space shall remain available at all times 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 CS28 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

HOURS OF CONSTRUCTION AND DEMOLITION

(7) Demolition or construction works shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:30 hours to 13:00 hours on Saturdays nor at any time on Sundays or Bank Holidays.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with Policy CS22 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 of Plymouth City Council's Local Development Framework.

INFORMATIVE: RESIDENTS PERMIT PARKING SCHEME

(1) The property lies within a resident permit parking scheme which is currently oversubscribed. As such, the property will be excluded from obtaining permits and visitor tickets for use within the scheme.

INFORMATIVE - MANAGEMENT PLAN

(2) With regard to the management plan, it is recommended that there is an appropriate selection process for tenants and that an appropriate anti-social behaviour clause is included in the tenancy agreement so that any anti-social behaviour or noise nuisance created by the tenants can be adequately addressed. Should a noise nuisance be created at the property, then action may be taken in line with statutory nuisance provisions under the Environmental Protection Act 1990.

INFORMATIVE: PRO ACTIVE WORKING

(3) In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 and paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.

Statement of Reasons for Approval and Relevant Policies

Having regard to the main planning considerations, which in this case are considered to be: standard of accommodation and the impact on the amenity of future occupants, impact on neighbour amenity, impact on the character and appearance of the area, and transport and parking aspects, 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 (1) 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 (until this is statutorily removed from the legislation) and (b) relevant Government Policy Statements and Government Circulars, as follows:

- CS34 - Planning Application Consideration
- CS01 - Sustainable Linked Communities
- CS15 - Housing Provision
- SPDI - Development Guidelines
- NPPF - National Planning Policy Framework March 2012