

PLANNING APPLICATION REPORT



Application Number 16/00568/FUL

Date Valid 11/04/2016

Item 04

Ward Efford & Lipson

Site Address 76 WEST HILL ROAD PLYMOUTH

Proposal Change of use of 6 bedroom HMO (Class C4) to a 8 bedroom HMO (Sui generis) (Retrospective)

Applicant Blue Sea Partnership LLP

Application Type Full Application

Target Date **06/06/2016**

Committee Date **Planning Committee: 07 July 2016**

Decision Category Assistant Director of Development Referral

Case Officer Liz Wells

Recommendation Grant Conditionally

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This application has been referred to the Planning Committee by the Assistant Director for Strategic Planning & Infrastructure for public interest reasons.

1. Description of site

76 West Hill Road is a two-storey mid-terraced residential property in the Efford ward of the city.

The has had a loft conversion and a single storey rear extension. The property is currently used as a house in multiple occupation (HMO) with 8 letting rooms.

2. Proposal description

Retrospective application for change of use of 6 bedroom HMO (Class C4) to 8 bedroom HMO (sui generis).

The application form states that the change of use was completed in July 2009.

The submitted plans show the property laid out with 4 bedrooms at first floor, 2 in the roof space and 2 on the ground floor, with an open-plan kitchen/living room at the ground floor rear (including the rear extension).

3. Pre-application enquiry

None.

4. Relevant planning history

15/01703/OPR - Planning compliance investigation – Use of property as an HMO – UNDER INVESTIGATION. The current planning application has been submitted following an initial investigation. Officers gave the applicant the option to seek permission to regularise the use of the building as an 8 bed HMO.

09/01792/FUL - Single-storey rear extension, and formation of rooms in roofspace, with rooflights – REFUSED on grounds of rear extension resulting in loss of light and dominance to 78 West Hill Road. The Officer report noted that the rear extension was already complete so the application was retrospective.

09/01579/OPR - Planning compliance investigation, opened following the refusal of the above planning application and further investigation. Officers concluded:

- the rear extension and decking were permitted development under the Town and Country Planning (General Permitted Development) Order 1995 (as amended). Noting the decking is on already existing terracing and property is a single dwelling occupied by 7 occupants.
- With regard to the change of use from flats to a single dwelling for student accommodation, this does not require consent, where the number of occupants is below 6 to 8 persons.

This was confirmed during the officer's site visit on 4 May 2010 and the compliance case was closed with no further action to be taken at that stage.

The second point above may seem contrary to the change in legislation (The Town and Country Planning (Use Classes) (Amendment) (England) Order 2010 (SI 2010/653)) which came into effect on 10 April 2010, however this conclusion would have been correct for the legislation in effect when the change took place. The change in legislation does not apply retrospectively. As a result, no further planning enforcement action was taken.

5. Consultation responses

Local Highways Authority – Recommend refusal unless restricted to students only and condition for cycle parking provision on site. Property to be excluded from residents permit parking scheme if approved.

6. Representations

Two letters of representation have been received in respect of this application from two neighbouring properties, objecting to the proposal on grounds of:

- Antisocial behaviour – noise abatement notices served on tenants in 2013/14; problems started in July 2010 and building work not completed in July 2009 as suggested in application form.
- Noise and disturbance – increase from 6 to 8 will make it worse. Students have parties, windows/door open, smoke and conversations outside. Noise amplified by ‘new’ rear extension design, raised decking and high fencing. Cars/taxis dropping off cause disturbance, compounded by turning arrangement at end of road. Sleep disturbance impacting their child’s education and their health. Previous noise complaints.
- Bins and refuse – left in back lane, bags put in neighbours wheelie bins, seen rubbish piled in front garden for months – rat seen amongst the rubbish.
- Car parking – already busy on street.
- Community balance/Lack of community spirit – area over-saturated by student lets. List the other properties in the vicinity which are HMOs
- Inadequate kitchen/living room space – food stored on window sills.
- Impact on neighbouring property value.

One letter also advises that the property has in previous years been let to summer students and therefore issues not just term time. Comments about some neighbours already moved on due to the issues experience.

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.

The development plan comprises of the Local Development Framework Core Strategy (Adopted April 2007).

The development plan is currently being reviewed as part of the Plymouth Plan. The Plymouth Plan-Part One was approved by the City Council in September 2015. The Plan, which incorporates draft development plan policy, has been prepared following a consultation process. As such it is a material consideration for the purposes of planning decisions.

The policies contained in National Planning Policy Framework (the Framework) and guidance in National Planning Practice Guidance (NPPG) are also material considerations which should be taken into account in the determination of planning applications. Due weight should be given to relevant policies in existing and emerging plans according to their degree of consistency with this framework

(the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

The Framework provides that the weight to be given to an emerging draft plan is also to be determined according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given). The Plymouth Plan is at a relatively early stage of preparation.
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given).

At the heart of the Framework is a presumption in favour of sustainable development. In the context of planning applications, this means approving development proposals that accord with the development plan without delay but where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits; or
- Specific policies in the Framework indicate development should be restricted.

Additionally, the following planning documents are also material considerations in the determination of the application:

- Development Guidelines Supplementary Planning Document (SPD) First Revision

8. Analysis

- 8.1 This application has been considered in the context of the development plan, the draft Plymouth Plan, the Framework and other material policy documents as set out in Section 7. The most relevant policies of the Core Strategy are CS01, CS15, CS28 and CS34 of the Core Strategy and the detailed guidance set out in the Development Guidelines SPD First Review, as well as relevant paragraphs in the NPPF.
- 8.2 The main considerations in assessing this proposal are:
- The impact on the residential character of the area and whether it results in the loss of family housing and creation of sustainable mixed communities
 - The standard of accommodation and whether the building is suitable for conversion.
 - Whether the proposal is sustainably located and whether the impact on the local highway network and proposed parking is acceptable.
 - Impact to neighbours

Character of area

- 8.3 The site lies within Article 4 direction area which from 14 September 2012, necessitates changes of use of dwellings C3 to C4 to require planning permission from the Council. Chapter 2.5 of the Development Guidelines SPD First Review applies to all applications for conversions to flats and HMOs.
- 8.4 The conversion of family dwellings into HMOs reduces the local stock of family dwellings and changes the character of the neighbourhood. HMOs are often associated with negative impacts such as noise, on-street car parking, anti-social behaviour and run-down properties. The degree of impact of a proposed HMO will depend on the location and the nature of the existing and resulting housing stock, and the number of existing HMOs and other non-family dwellings in the area.
- 8.5 Given the planning history of the site (detailed in section 4 above), Officers do not consider that this proposal represents a loss in family housing stock in this case. The property was in

lawful use as an HMO prior to the Article 4 Direction being brought into effect. This has been confirmed by the Private Sector Housing Team of the Council. An HMO licence was granted by them for the property in 2010.

Standard of accommodation

- 8.6 The standard of accommodation proposed is considered by Officers to be acceptable, on the condition that it is used for a maximum of 8 occupants. This has been confirmed by the HMO licence. The age and style of the house mean that the rooms within the main house are large, light and airy. All bedrooms meet or exceed the minimum size requirement and there are sufficient bathroom facilities. The communal lounge and kitchen are a generous size and the Private Rental Housing Team are satisfied with the cooking and storage facilities available for the occupants.
- 8.7 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. As such, a condition is recommended to restrict the number of bedrooms to be used to the 8 shown on the submitted floor plans.

Transport and parking

- 8.8 The property does not have any off street parking and lies within a resident parking permit zone (RPZ) which operated between 1400-1900 Monday to Saturday.
- 8.9 As detailed in the consultation comments received from the Local Highways Authority, the Development Guidelines SPD indicates that properties that sit within RPZ which operates for more than 6 hours a day, 6 days a week, may be acceptable without provision of any car parking. For those within a shorter timed zone a contribution toward meeting parking demand or manage parking to ensure that no on street parking occurs.
- 8.10 Using the maximum parking standards set out in the Development Guidelines SPD and comparing the parking requirement for a 6 bed HMO (the maximum size of HMO under current legislation and assumed lawful use of the property) and the proposed 8 bed HMO, Officers conclude that the shortfall would be 2 car parking spaces. However, by restricting occupation to bona-fide full time students only then the parking requirement is reduced by 50%. This would require a parking provision of 2 spaces for an 8 bed HMO, which is comparable to the standard residential requirement.
- 8.11 The agent has confirmed that the applicant is willing to accept a student only restriction. Officers consider that subject to this restriction, the situation would technically be an improvement over the current use as a 6 bed HMO as the shortfall would be reduced. The proposed use, would not increase the demand for on-street parking in Officers' view.
- 8.12 Furthermore, in line with policy, a storage area for cycles, at a ratio of 1 space per 2 rooms, should be secured by way of a condition. The store should be secure and covered, although can be incorporated within the building if required.
- 8.13 Given the close proximity to services and the University, and the steepness of West Hill Road, the take up of bicycles by residents may be limited. Nevertheless, the property has a rear yard with access from the rear service lane. A condition is therefore recommended for further details of a cycle store for a minimum of 4 bicycles to be submitted for approval via a planning condition and implemented in accordance with the approved details within 3 months or prior to occupation (whichever is the longer) should planning permission be granted.
- 8.14 Should permission be granted the property will be excluded from obtaining parking permits for use within the permit zone and an informative to that effect should be attached to any consent.

Impact on neighbours

- 8.15 Officers note that this application has been submitted following a planning compliance investigation. Issues raised in the letters of representation raise issue with anti-social behaviour, noise and disturbance and bins and refuse – all having an impact on the neighbouring residential amenity.
- 8.16 The Public Protection Unit have confirmed that in the 2014/15 academic year, Noise Abatement notices were served on all the tenants. In 2015/16, one complaint was received and officers have visited the site and a neighbour mediation meeting held. The number of students, combined with the arrangement of the building and angle of the property means that noise from the communal living space is audible beyond the building when the large rear doors are open. However, Officers consider that providing the tenants are reasonable and the property is properly managed, then the proposed increase the HMO from 6 to 8 bedrooms, would not be likely to result in an unreasonable impact on the neighbouring residential amenity.
- 8.17 Details of the Management of the property have been submitted in connection with the HMO licence, including the contact details of the manager and how they deal with anti-social behaviour. The HMO Managers are Clever Student Lets who have multiple licensed HMO's in Plymouth and are the largest provider of student accommodation away from halls in the city. They have a good structure and reputation for managing licensed HMO's. A condition is recommended to ensure that the property is operated in accordance with the management plan.
- 8.18 There is sufficient space in the rear yard for the storage of refuse. A condition is recommended for further details of the refuse storage provision within the site to ensure that details are acceptable to the Local Planning Authority and for this to be implemented within 3 months of the decision.
- 8.19 The visual impact of any refuse storage and external cycle storage structure will be assessed by Officers when details are received. Issues raised in the letters of representation are the subject of management and shall be forwarded to the Management company.

Other issues

- 8.20 Letters of representation also raised issue with the impact of development on neighbouring property value. Property value is not a material planning consideration.

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

None. Due to the small scale of this proposal, it does not attract a Community Infrastructure Levy under the current charging schedule or any New Homes Bonus.

11. Planning Obligations

Due to the small scale and impact of this proposal, no planning obligations have been sought in respect of this proposal.

12. Equalities and Diversities

No issues raised by this proposal.

13. Conclusions

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 specifically is not considered to result in unacceptable harm to the living conditions of neighbouring residents in terms of noise and disturbance, subject to management and reasonable tenants, and would not result in the loss of accommodation suitable for a family. The proposal is considered acceptable, subject to conditions as set out above.

14. Recommendation

In respect of the application dated **11/04/2016** and the submitted drawings site location plan, floor plans, elevations and section drawing 2256/2/A and accompanying covering letter dated 5 April 2016, it is recommended to: **Grant Conditionally**

15. Conditions

CONDITION: APPROVED PLANS

(1) The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan, floor plans, elevations and section drawing 2256/2/A.

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, and paragraphs 61-66 of the National Planning Policy Framework 2012.

CONDITION: STUDENT ACCOMMODATION WITH NO PARKING PROVISION

(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 due to the lack of off-street parking provision and in accordance with the Policies CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, the detailed parking standards set out in the Development Guidelines Supplementary Planning Document First Review and paragraphs 29 - 35 and 61 of the National Planning Policy Framework 2012, but its occupation by any other persons would need to be the subject of a further planning application for consideration on its merits.

Other Conditions

CONDITION: MAXIMUM 8 BEDROOMS

(3) No more than 8 rooms at the property shall be used as bedrooms. Only the labelled bedrooms 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 room 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, and paragraph 61 of the National Planning Policy Framework 2012.

CONDITION: MANAGEMENT PLAN

(4) The management plan submitted as part of the HMO Licence shall be adhered to strictly at all times 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, 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, paragraph 121 -123 of the National Planning Policy Framework 2012 and Plymouth's adopted Development Guidelines Supplementary Planning Document First Review 2013.

CONDITION: REFUSE STORAGE

(5) Within 3 months of the date of decision, space shall be laid out within the rear yard area of the site for refuse storage in accordance with details previously submitted to and approved in writing by the Local Planning Authority 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, and paragraphs 61-66 of the National Planning Policy Framework 2012.

CONDITION: CYCLE PROVISION

(6) Within 3 months of the date of this decision notice, space shall be laid out within the site for a minimum of 4 bicycles to be securely parked in accordance with details previously submitted to and approved in writing by the Local Planning Authority. The secure area for storing bicycles shown on the approved plan 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, and paragraphs 29 - 35 of the National Planning Policy Framework 2012.

Informatives

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: CONDITIONAL APPROVAL WITH NEGOTIATION

(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 with the Applicant including pre-application discussions and has negotiated amendments to the application to enable the grant of planning permission.

INFORMATIVE: DEVELOPMENT IS NOT LIABLE FOR A COMMUNITY INFRASTRUCTURE LEVY CONTRIBUTION

(4) 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).