

# PLANNING APPLICATION REPORT



<b>Application Number</b>	16/01019/FUL	<b>Item</b>	05
<b>Date Valid</b>	07/06/2016	<b>Ward</b>	Peverell

<b>Site Address</b>	36 BURLEIGH PARK ROAD PLYMOUTH		
<b>Proposal</b>	Change of use from dwelling (Class C3) to 4-bedroom HMO (Class C4) (retrospective).		
<b>Applicant</b>	Ms Suzanne Dilorenzo		
<b>Application Type</b>	Full Application		
<b>Target Date</b>	<b>02/08/2016</b>	<b>Committee Date</b>	<b>Planning Committee: 07 July 2016</b>
<b>Decision Category</b>	Member Referral		
<b>Case Officer</b>	Chris Cummings		
<b>Recommendation</b>	Grant Conditionally		

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## **This application has been referred to Planning Committee by Councillor Carson**

### **1. Description of site**

36 Burleigh Park Road is a mid-terrace property in the Peverell ward of Plymouth. The rear of the site faces onto an access lane. The property has a small courtyard area, but no on-site parking.

### **2. Proposal description**

Retrospective application for change of use from single-family dwelling (Use Class C3) to House of Multiple Occupation (Use Class C4) involving the shared use of the property by 3 to 6 persons.

### **3. Pre-application enquiry**

None

### **4. Relevant planning history**

16/00940/OPR – Planning compliance case - change of use to HMO – current investigation

### **5. Consultation responses**

Local Highway Authority – No objection subject to appropriate mitigation

Public Protection Service – No objection subject to appropriate mitigation of a management plan to prevent anti-social behaviour and noise.

Housing Strategy and Development, Private Housing – General comments received relating to general design and layout requirements

### **6. Representations**

14 letters of representation have been received. They were all objecting to the proposal and raised the following concerns:

- Impact due to increased noise and rubbish levels
- Increase demand for car parking spaces
- Loss of family housing and change in character of the street
- Potential of increase in number of occupants

### **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

## **8. Analysis**

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.
2. The primary considerations for this application are Policies CS01 (Development of Sustainable Linked Communities), CS15 (Overall Housing Provision), CS34 (Planning Application Considerations), CS22 (Pollution) and the Development Guidelines SPD in respect to the character, amenity of occupants, impact on neighbour amenity and the impact on the highway network.

### **Background**

3. The property was drawn to the attention of the Council in the form of a planning compliance enquiry in May 2016 advising that the property had changed from being a single-family

dwelling to an HMO. The property falls within the area covered by the Article 4 Direction (introduced in September 2012) that requires planning permission for changes of use from single dwellinghouses (Use Class C3) to Houses of Multiple Occupation of 3-6 occupants (Use Class C4). The occupant type is not restricted to specific tenancy types (such as students)

#### **Character of the area**

4. High concentrations of HMO's can have a detrimental impact on areas in terms of noise, anti-social behaviour, street parking and poorly maintained properties.
5. The Development Guidelines SPD First Review states that a threshold of 25% of properties in HMO use is considered to be an appropriate ceiling to maintain balanced communities within the area covered by the Article 4 Direction. Changes that would result in a concentration higher than 25% would normally be resisted.
6. From the data available to the Council, the percentage of licensed HMOs and Council Tax exempt properties in the census output area is in the band 0-10% and contiguous census output area for this location falls within the band 0-10%.
7. A desktop survey of residential properties in within 100 metres of the application site shows that 0% of properties are already in use as some form of multiple occupation. A recent appeal decision (13/01068/FUL) has clarified what can be considered when analysing this data. Only those properties that can demonstrate to be in HMO use should be counted, and this would give a figure of 0, which is below the ceiling set out in the Article 4 Direction.
8. As the number of properties is below the ceiling set out in the Article 4 Direction and the Development Guidelines SPD, it is acceptable under this consideration.

#### **Amenity of occupants**

9. Policy CS15 (Overall Housing Provision) states that any conversion of an existing dwelling into an HMO would only be supported where the gross floor area of the property exceeds 115sqm. This property has a total floor space of approximately 119sqm, exceeding this figure.
10. There is no planning policy set for minimum standards for bedrooms, but all 4 bedrooms are larger than the 6.5sqm requirement set out in the Guidance for the Licensing of Housing in Multiple Occupation, which relates to Housing legislation. The smallest room is 7.92sqm in size. One bathroom and toilet has been provided on the first floor, with an additional bathroom on the ground floor.
11. The Development Guidelines SPD recommends an outdoor amenity space of 50sqm to be provided for terraced dwellings. This application provides approximately 47sqm of outdoor amenity space. Although this is slightly under the recommended levels, it is considered acceptable as, due to the design of the street, all properties on Burleigh Park Road have similar levels of outdoor amenity space provision. No further amenity space could be provided in this area.

### **Impact on neighbour amenity**

12. No additions or extensions to the existing structure have been proposed, so the new use would not result in any loss of light or privacy for neighbours. Seven letters objection letters have been received, raising concerns about an increase in noise and rubbish from the change of use. The use of a property as an HMO is a more intensive use than a single family dwellinghouse and could have a detrimental impact on the area. To mitigate any neighbour amenity impact, in line with advice from the Public Protection Service, it is proposed to add a management plan condition to limit any anti-social behaviour.
13. The large bedrooms have the potential to be split down further into smaller bedrooms, creating a dwelling of six persons. To prevent this from occurring, it is proposed to conditionally restrict the occupancy to four persons only.

### **Transport and Highway Considerations**

14. A change of use has the potential to increase transport and highway concerns in the surrounding area, as such the Local Highways Authority have provided their comments on the proposal. According to the Council parking standards a single-dwelling house with two or more bedrooms require a maximum of two off-street parking spaces. HMO's require one off-street parking-space per two occupiers, so two parking spaces would be required for four occupants. This is the same as the use as a single dwelling and, in terms of parking standards, the two uses would be considered equal and result in a status quo.
15. In addition, to promote alternative transport methods from that of a private vehicle, in accordance with the Policy CS28, it is proposed to add a condition requiring the construction of secure, under-cover cycle storage for a minimum of 2 bicycles.
16. The use as an HMO is considered an intensification of the use of the property, and would give rise to an increase in comings and goings and parking demands. This may cause some small degree of detriment to public safety, but the view of the Highway Authority is that it would not be considered significant enough to sustain a recommendation of refusal on transport and highway grounds.

## **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**

No planning obligations have been sought

## 12. Equalities and Diversities

None

## 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 recommends conditional approval.

## 14. Recommendation

In respect of the application dated **07/06/2016** and the submitted drawings Site location plan, single-dwelling floor plans, current floor plans, it is recommended to: **Grant Conditionally**

## 15. Conditions

### CONDITION: APPROVED PLANS - RETROSPECTIVE

(1) This permission relates to the following approved plans: Site location plan, single-dwelling floor plans, current floor plans.

#### 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: BEDROOMS

(2) No more than 4 rooms at the property shall be used as bedrooms. Only the rooms labelled "bedroom" on the approved 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 proposed in the application is considered to be the maximum that can reasonably be accommodated at the site. The proposed 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, and paragraph 61 of the National Planning Policy Framework 2012.

### CYCLE PROVISION

(3) Within 28 days of the date of this decision details shall be submitted in writing to the Local Planning Authority for approval of space for 2 bicycles to be securely parked. The secure area for storing bicycles 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 CS28 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraph 32 of the National Planning Policy Framework 2012.

### **Pre-occupation Conditions**

#### **PRE-OCCUPATION: ACCOMMODATION MANAGEMENT**

(4) Within 28 days of the date of this notice details of the arrangements by which the accommodation is to be managed shall be submitted to the Local Planning Authority for approval. Thereafter, the property shall continue to be managed permanently in accordance with the approved management arrangements, unless the Local Planning Authority gives written approval to any variation of the arrangements.

Reason:

To assist in protecting the residential amenities of the area, in accordance with policies CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraph 123 of the National Planning Policy Framework 2012.

### **Informatives**

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

(1) 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).

#### **INFORMATIVE: CONDITIONAL APPROVAL (NO NEGOTIATION)**

(2) 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.

#### **INFORMATIVE - MANAGEMENT PLAN**

(3) 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.