

PLANNING APPLICATION OFFICERS REPORT



Application Number	19/01209/S73	Item	02
Date Valid	01.08.2019	Ward	COMPTON
Site Address	17 Fairfield Hotel, Pentillie Road Plymouth PL4 6QL		
Proposal	Removal of condition 3 of application 00/00004/FUL (retrospective)		
Applicant	Mrs Vasiliou		
Application Type	Removal or variation of a condition		
Target Date	26.09.2019	Committee Date	10.10.2019
Extended Target Date	17.10.2019		
Decision Category	Councillor Referral		
Case Officer	Mr Dan Thorning		
Recommendation	Grant Conditionally		



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

1. Description of Site

The Fairfield Hotel, 17 Pentillie Road is a large end terrace property situated on the corner of Seaton Avenue and within the Compton ward of Plymouth. The property has 12 bedrooms, 1 site manager's bedroom, 2 kitchens and 1 living room, and its current use is a large House in Multiple Occupation (HMO) (Use Class Sui Generis).

Prior to the existing use, the site was used as a licensed function suite with residential accommodation on the upper floors. The function suite had a maximum capacity of 100 guests at any one time.

2. Proposal Description

This retrospective Section 73 application seeks to remove Condition 3 of the extant planning permission reference 00/00004/FUL (Change of use from residential unit with function suite to form student accommodation), to enable occupation by persons not limited to students in full time education. Condition 3 of said application states:

3. The occupation of the accommodation hereby permitted, shall be limited to students in full time education.

Reason: The accommodation is considered suitable for students in accordance with Policy ACR7 (Student Accommodation Policy) of the City of Plymouth Local Plan First Alteration (1996) but its occupation by any other persons would need to be subject of a further application for consideration on its merits.

The retrospective application was submitted in response to a planning compliance case (reference 19/00195/ENF) that was generated following a public complaint. The compliance case found that the site was occupied by persons other than students contrary to Condition 3 of the aforementioned planning permission.

3. Pre-application Enquiry

There were no pre-application enquiries.

4. Relevant Planning History

19/00195/ENF – Alleged unauthorised use as a homeless hostel - Pending Consideration

00/00004/FUL – Change of use from residential unit with function suite to form student accommodation – Grant Conditionally

95/00075/FUL - Change of use from residential unit and function suite to mental health day facility, meeting rooms, offices, therapy counselling and training rooms and associated catering facility - Prior approval granted GPD

94/01331/EXUSE - Function suite on ground floor with gents & ladies washrooms on first floor - Prior approval refused GPD

5. Consultation Responses

Local Highways Authority - the Local Highways Authority initially objected to the application due to inadequate car parking provision. However, the objection has been withdrawn providing a condition restricting occupation to temporary accommodation is placed on any consent.

Community Connections – no objections. The site has sufficient facilities for a 13 bed HMO.

Devon and Cornwall Police – no comments from a designing out crime perspective.

Housing Delivery – no objections. The application will meet an existing housing need.

Public Protection Service – no comment.

6. Representations

A total of 25 letters of representations have been received from 23 different people objecting to the development for the following reasons:

- * There has been an increase in noise disturbances, including at night, and alleged anti-social behaviour since the existing tenant group occupied the property
- * The property has insufficient outdoor amenity space
- * There are too many HMOs in the area
- * There are several homeless hostels in the area that negatively impact the community and do not contribute to the creation of a sustainable neighbourhood
- * There are vulnerable groups including school children, students and elderly persons in proximity to the site
- * Retrospective application undermines the planning system
- * The building should be occupied by students or elderly persons

Many of the objections raised revolve around the character and behaviour of the occupiers. These representations are not considered material planning considerations, which include impacts on amenity and transport considerations.

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) and guidance in Planning Practice Guidance (PPG). Additionally, the following planning documents are also material considerations in the determination of the application:

* Plymouth City Council Development Guidelines Supplementary Planning Document First Review (2013) (SPD)

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. The application turns upon policies DEV1 (Protecting health and amenity), DEV2 (Air, water, soil, noise, land and light), DEV9 (Meeting local housing need in the Plan Area), DEV10 (Delivering high quality housing) and DEV29 (Specific provisions relating to transport) of the JLP in addition to Chapter 8 of the Development Guidelines SPD. The primary planning considerations for this application are impacts on residential amenity and car parking provision.

2. The extant consent (reference 00/00004/FUL) authorises use of the site as a large HMO falling under Use Class Sui Generis. The section 73 application proposes to remove condition 3 of the extant consent to enable a change of occupier. The proposed use is considered to fall under Use Class Sui Generis and not C2 Residential Institution, which requires an element of residential care. Officers therefore consider that there is no proposed change of use.

3. For the reasons outlined above, policy DEV11 (Houses in Multiple Occupation in the Plymouth Article 4 Direction Area) of the JLP, which refers to HMO levels in the surrounding area and is relevant for proposals for new HMOs, is not a consideration in this Section 73 application.

4. The property has been occupied by Bournemouth Churches Housing Association (BCHA) since May 2019. BCHA has been commissioned by Plymouth City Council through the 'Alliance' contract to procure and provide temporary accommodation to house homeless persons. It is understood that BCHA leases the property from the applicant/freeholder and it works in partnership with the Council to meet the needs of the city.

5. Officers recognise that homelessness is an important social issue. Locally, there has been an increase in the number of single homeless persons including those with complex needs and mental health needs and/or substance dependence. There are 184 people in Plymouth accommodated within the single homeless system with between 15 and 30 people rough sleeping at any one time.

Amenity

6. The application proposes no alterations to the building, thus there are no overlooking, overbearing or loss of privacy impacts to be considered. The majority of the letters of representation refer to an increase of noise disturbances and alleged anti-social behaviour since the property was occupied by BCHA.

7. Devon and Cornwall Police did not wish to comment on the application from a designing out crime perspective. However, it did provide data on crimes and anti-social behaviour incidents. Since the property was occupied by BCHA in May 2019, there have been 2 crimes committed including possession of Class B drugs and setting off fire extinguishers. In addition, there have been 2 incidents of anti-social behaviour relating to street drinking and noise. Neither incident was investigated by the Police.

8. The extant planning permission requires an obligation to provide a resident warden and management schedule, including complaints procedure, for the property. At present, there is a resident warden on site from 9:00 hours to 17:00 hours and a 24/7 phone contact for out of hours calls. The applicant has submitted a Management Plan that proposes to provide a resident warden that is on site 24 hours a day and 7 days a week, to manage the facility and any issues that may arise. The Management Plan states:

- (a) The facility is to be managed by the staff of a registered housing provider with over 50 years' experience of operating similar facilities.
- (b) There is a 24 hour a day, 7 day a week staffing presence to provide support to the occupiers and to deal with issues on site.
- (c) There is a robust and tested regime to govern the occupation of the rooms for occupants so as to ensure they occupy in an appropriate and proper way.
- (d) Local residents have been made aware of the arrangements that are in place for the occupancy of the premises and have been given a number to telephone in the unlikely event they have any issues.
- (e) The applicant is prepared to have this management plan incorporated as an agreed condition on any planning consent that is granted to authorise the use of the premises.

9. In addition, the applicant has supplied a copy of BCHA's License Agreement and a Residents Induction Pack, which sets out a four stage warning procedure that culminates with serving a Notice to Quit. The License Agreement states that a license may be terminated with not less than 7 days written notice in the event of residents causing nuisance or committing violent, threatening or abusive behaviour that interferes with the occupiers of neighbouring properties.

10. Officers understand that BCHA endeavours to find alternative accommodation for licensees that are evicted from its managed properties. This could be at George House, the Salvation Army or one of its other properties providing temporary accommodation. The very last option for licensees is to be placed in B&B accommodation or become street homeless.

11. A condition is recommended requiring the applicant to manage the property in accordance to the Management Plan. Officers consider that the Management Plan will limit the housing management concerns raised by local residents and councillors to accord to policies DEV1 (Protecting health and amenity) and DEV2 (Air, water, soil, noise, land and light) of the JLP.

12. The applicant has also proposed to organise quarterly community forum meetings to be attended by the site warden/managing agent, ward councillors, a community police officer, 2 local representatives (including 1 representative to be nominated by ward councillors) and a resident of the application property. Officers recommend securing a condition requiring the community forum to meet in accordance to the approved details unless any variations are agreed in writing by the Local Planning Authority.

13. Officers consider that the use of the property will remain the same (i.e. large HMO) and that the nature of the occupiers will be similar in that the property will continue to be occupied by a group of unrelated individuals. On balance, officers consider that the proposal will not have a significant detrimental impact on neighbouring amenity providing all conditions are strictly adhered to, with particular attention drawn to the Management Plan and inclusion of local residents in a quarterly community forum.

Car Parking Provision

14. The Local Highways Authority was consulted on the application. The restriction of the use to students placed on application 00/00004/FUL was due to the intensification in the use of the property, which was, and remains, unable to provide off-street car parking to meet the needs of the occupiers. Student occupation tends to give rise to a lower demand for car parking than other occupiers, thus the restriction was intended to prevent overspill car parking in the surrounding local streets, which would otherwise cause damage to local amenity and would disadvantage neighbours.

15. The Council's current car parking standards, which are set out in Chapter 8 of the Development Guidelines SPD, indicate that a maximum of 1 car parking space per 2 occupiers should be provided for HMOs and purpose-built student accommodation. However, the application site has 13 bedrooms (including the manager's bedroom) and no off-street car parking spaces.

16. Paragraph 8.5.2 of the Development Guidelines SPD also states that a proposal with a Controlled Parking Zone (CPZ) which operates at least 6 days a week and more than 6 hours a day could be acceptable without the provision of off-street parking. However, that would not apply in this instance as the CPZ in the surrounding streets operate shorter term parking restrictions, for no more than 2 or 3 hours a day. Therefore, in accordance with the guidance set out in the Development Guidelines SPD, a car parking contribution would usually be required to support the proposed change in occupancy.

17. Furthermore, paragraph 8.5.3 of the Development Guidelines SPD states that 'occupants of new developments within an existing CPZ will not be issued with permits.' Due to the short duration of the CPZ in the surrounding local streets, the parking restrictions would be of insufficient duration to prevent overspill car parking by residents that do not have, or are excluded from the entitlement of parking permits.

18. For these reasons, the Local Highways Authority initially objected to the application. However, the property is currently let as short-term temporary accommodation for homeless persons through BCHA. Officers consider that this client group is unlikely to generate a significant demand for car-parking spaces.

19. As such, officers, including the Local Highways Authority, consider that a condition restricting occupation to temporary accommodation managed by a Registered Provider of Social Housing, will address the concerns regarding inadequate car parking provision. The proposal is therefore considered to accord to policy DEV29 (Specific provisions relating to transport) of the JLP.

Retrospective Application

20. 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. 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.

21. 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 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. 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.

22. In summary, with appropriate mitigation in the form of conditions, the proposal is considered to accord with the national and local planning policies set out above and it will contribute to meeting an important local housing need. The application is therefore considered acceptable.

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

There no local finance considerations.

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 2019 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.

Homelessness is recognised as an important social issue both nationally and locally and it is imperative that accommodation to tackle the issue is delivered in Plymouth. The Local Planning Authority recognises the value of this application in addressing equality and diversity objectives in the city.

13. Conclusions and Reasons for Decision

Officers consider that the proposed occupiers will not have a significant detrimental impact on neighbouring amenity providing the conditions, specifically those relating to the Management Plan and a quarterly community forum, are strictly adhered to. This includes providing a resident warden who is on site 24 hours a day and 7 days a week, to manage the facility and any issues that may arise.

Officers consider that the proposed occupier is unlikely to generate a significant demand for car-parking spaces. Officers therefore recommend securing a condition restricting occupation to homeless persons managed by a Registered Provider of Social Housing to limit adverse impacts on neighbouring amenity in relation to inadequate car parking provision.

It is highly undesirable for development to take place before planning permission has been sought. The Local Planning Authority has no evidence to suggest that the applicant was aware that the site

lacked the necessary consent for occupation by persons other than students. Therefore no weight has been given to NPPF policies on intentional unauthorised development.

Officers have taken account of the NPPF and S38(6) of the Planning and Compulsory Purchase Act 2004 and concluded that on balance, the proposal accords with policy and national guidance, providing appropriate mitigation can be secured by conditions. The application is therefore recommended for conditional approval.

14. Recommendation

In respect of the application dated 01.08.2019 it is recommended to Grant Conditionally.

15. Conditions / Reasons

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

1 CONDITION: APPROVED PLANS

Location Plan 19028 - S.00 - received 31/07/19

Proposed Alterations DK/99161/01/00 - received 31/07/19

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: RESTRICTED OCCUPATION

The site shall be occupied solely as temporary accommodation managed by a Registered Provider of Social Housing registered with Homes England (or on any statutory register which may hereafter replace it).

Reason: In granting this permission the Local Planning Authority has had regard to the applicant's special circumstances but for which the application would have been refused, in accordance with policy DEV29 (Specific provisions relating to transport) of the Plymouth and Southwest Devon Joint Local Plan 2014-2034.

3 CONDITION: ACCOMODATION MANAGEMENT

The property shall be managed permanently in accordance to the approved Management Plan that was received on the 18th September 2019, unless the Local Planning Authority gives written approval to any variation of said Management Plan.

Reason: To assist in protecting the residential amenity of the area in accordance to policies DEV1 (Protecting health and amenity) and DEV2 (Air, water, soil, noise, land and light) of the Plymouth and Southwest Devon Joint Local Plan 2014-2034.

4 CONDITION: COMMUNITY FORUM

The community forum shall meet quarterly in accordance to the details submitted to the Local Planning Authority on 24/09/2019. The community forum shall continue to operate in the agreed format at all times while the site continues to be used for the approved use unless any variations are agreed in writing by the Local Planning Authority.

Reason: To ensure that the facility is managed in an appropriate manner to avoid harm to the living conditions of nearby properties to comply with DEV1 (Protecting health and amenity) and DEV2

(Air, water, soil, noise, land and light) of the Plymouth and South West Devon Joint Local Plan (2014-2034).

5 CONDITION: CYCLE STORAGE

A secure area for the storing of cycles shall be permanently provided as shown on the approved plans.

Reason: To ensure that there are secure storage facilities for cycles belonging to the residents of the property, in accordance to policy DEV10 (Delivering high quality housing) of the Plymouth and Southwest Devon Joint Local Plan 2014-2034 and Chapter 8 of the Development Guidelines First Review (2013).

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 [including pre-application discussions] [including a Planning Performance Agreement] and has negotiated amendments to the application to enable the grant of planning permission.

3 INFORMATIVE: SITE WARDEN

The applicant should be advised that the approved Management Plan requires that there be a site warden present 24 hours a day, 7 days a week.

4 INFORMATIVE: USE CLASS SUI GENERIS

The existing use of the site is as a large HMO (Use Class Sui Generis). The applicant should be made aware that planning permission will be required if care is to be provided to people in need of care, as such accommodation would fall under Use Class C2 Residential Institutions.

5 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.