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## Appeal Decision

Site visit made on 23 June 2017

**by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 26 July 2017**

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**Appeal Ref: APP/Z1775/W/16/3159990**  
**25 Baileys Road, Southsea PO5 1EA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr James Oliver (OMPD Ltd) against the decision of Portsmouth City Council.
  - The application Ref 16/01210/FUL, dated 18 July 2016, was refused by notice dated 16 September 2016.
  - The development proposed is the change of use from C4/C3 dual use to sui generis.
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### Decision

1. The appeal is allowed and planning permission is granted for the change of use from C4/C3 dual use to a 7 bedroom house in multiple occupation (HMO) Sui Generis at 25 Baileys Road, Southsea PO5 1EA in accordance with the terms of the application, Ref 16/01210/FUL, dated 18 July 2016, subject to the following conditions:
  1. The development hereby permitted shall begin not later than three years from the date of this decision.
  2. The development hereby permitted shall be carried out in accordance with the following approved plans: location plan titled stanfords for business and PG.1040.16.SUI.
  3. The premises shall only be used as a house in multiple occupation for a maximum of 7 residents.

### Procedural Matters

2. The description given in the heading above is taken from the application form which is different from the Council's description. The Council's description refers to a 7 bedroom house in multiple occupation (HMO) sui generis which is a more accurate description of the proposal and has been used in my formal decision.
3. There are discrepancies with the documentation as to whether this HMO proposal would accommodate 7 or 8 persons. However the Appellant's grounds of appeal statement clearly states that the use sought is a HMO for 7 persons at paragraph 4.14 and the appeal has been considered on this basis.

### Application for costs

4. An application for costs was made by M James Oliver against Portsmouth City Council. This application is the subject of a separate Decision.
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## **Main Issue**

5. The main issue is the effect of the proposal on the living conditions of future residents of the HMO, having regard to communal internal space provision, and existing residents in the surrounding area, having regard to noise and disturbance.

## **Reasons**

### *Living conditions*

6. The appeal property consists of a two storey mid-terraced property located close to the intersection of Somers Road and Winston Churchill Avenue. The property has planning permission for a change of use from Class C3 (dwellinghouse) to purposes falling within Class C4 (House in multiple Occupation for up to 6 persons) or Class C3 (dwellinghouse).
7. The submitted plans show the property having a kitchen, lounge, bathroom, WC and a study at the ground floor, three bedrooms and a bathroom at the first floor, and three bedrooms at second floor. The Council has confirmed its existing use as Class C4 HMO which I have no reason to disagree with. The Council's Houses in multiple occupation (HMOs) Ensuring mixed and balanced communities Supplementary Planning Document (SPD) states that an 'imbalanced' community will be where more than 10% of residential properties within the area surrounding the proposal property are already in HMO use. Within the vicinity of the appeal site, the percentage is already around 50%. However the proposal would be adding one bedroom to an existing HMO and so this percentage HMO threshold would not be relevant.
8. The Council has stated that the licenced HMO room sizes are smaller than those for new build residential development under the nationally described space standards under the Department of Communities and Local Government Technical housing standards. This has not been challenged by the Appellant and there would also be a loss of a shared community space, a study, to the residents of the HMO. However there would still be a shared open plan kitchen and lounge remaining for residents and the adequateness of room sizes for habitation remains a matter for the City Council's Private Sector Housing Team in licensing the premises. For all these reasons, the room sizes and layout of the accommodation would not be so restricted as to cause residents to spend any greater time within their bedrooms than would otherwise be the case and therefore would not cause any significant increase in noise and disturbance.
9. The Council has reported that the existing Class C4 HMO has already had a discernible impact on local residents and based on this, that increased use intensity would further undermine the quality of life and community cohesion. Local residents have raised objections concerning anti-social behaviour, noise and disturbance from the existing HMO and highlighted such issues with HMOs in general, with specific reference to noise in the early hours, litter/associated hygiene and the leaving out of poorly secured refuse bags on incorrect collection days.
10. However such issues can equally apply to other types of accommodation. Although it is accepted that it represents a snapshot of time, I could not find any significant problems of litter and waste disposal on Baileys Road on my site

visit. There is also no firm evidence that the addition of one bedroom would lead to an increase in anti-social behaviour or result in crime or the fear of it. Furthermore, the comings and goings of people, internal activity and resultant noise arising from an additional person would not be significant compared to the impact of the six that can currently lawfully reside at the property. For these reasons, individually or cumulatively, the change of use would not result in the adverse deterioration of residents' quality of life.

11. I have also considered the Council's argument of precedent if planning permission is granted for subsequent similar applications. However every application and appeal has to be considered on its individual planning merits, including the gradual cumulative effects of increases in number of HMO residents and therefore a generalised concern of this nature does not justify withholding permission in this case.
12. The appeal site does not benefit from any off-street vehicle parking and none can be provided. Nevertheless the property already has lawful use as HMO for six persons and lies in close proximity to local shops, services and transport facilities. Given this, increased demand for parking space would not be significant especially as only one additional HMO bedroom is proposed. In any case, there is no detailed evidence that the area is at full parking capacity even if there was an additional space required. I appreciate that parking distant from a property can be inconvenient for residents but there is no detailed evidence of how common this problem is. Furthermore the proposal would provide living accommodation for a person and therefore such inconvenience would not outweigh the acceptability of the proposal.
13. In conclusion, the development would not harm the living conditions of neighbouring residents or future residents of the HMO for the reasons indicated. The proposal would not conflict with policy PCS20 of the Portsmouth Plan, which states applications for a change of use to a HMO will only be permitted where the community is not already imbalanced by a concentration of such uses or where the development would not create an imbalance.

### **Conditions**

14. A condition is necessary ensuring that the development is carried out in accordance with the approved plan in the interest of certainty. To protect the living conditions of residents and for certainty, to reflect what is being applied for, the number of residents is limited to no more than seven.

### **Conclusion**

15. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be allowed.

*Jonathon Parsons*

INSPECTOR