



## Appeal Decision

Site Visit made on 9 June 2021

**by S Edwards BA MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 05 August 2021**

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**Appeal Ref: APP/D1780/W/21/3267693**

**209 Burgess Road, Southampton SO17 1TU**

- 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 A. Bingham against the decision of Southampton City Council.
  - The application Ref 20/01565/FUL, dated 13 November 2020, was refused by notice dated 11 January 2021.
  - The development proposed is change of use from C3 dwellinghouse to C4 House in Multiple Occupation.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) published on 20 July 2021 sets out the Government's planning policies for England. Policies within the Framework are material considerations which should be taken into account for the purposes of decision-making from the date of its publication. The parties were given the opportunity to comment on this matter, and I have had regard to the updated Framework in determining this appeal.
3. I have altered the description of development, to remove aspects which do not constitute acts of development. The change of use has already taken place, and I shall therefore determine the appeal on this basis.

### Main Issue

4. The main issue is the effect of the development on the character and amenity of the area, having particular regard to the mix and balance of households in the local community.

### Reasons

5. The appeal site forms part of a row of semi-detached properties of a similar appearance. These properties front a busy thoroughfare and are located within an area of mixed character, being directly opposite a parade of shops and the University of Southampton's Highfield Campus.
6. The Council has made an Article 4(1) Direction, which came into force in March 2012 to suspend permitted development rights for the change of use from a Class C3 dwellinghouse to a Class C4 House in Multiple Occupation (HMO). This was followed by the adoption of a Houses in Multiple Occupation Supplementary Planning Document (SPD) in May 2016 which notably seeks to

ensure that the proportion of HMO dwellings does not exceed 10% of the residential properties.

7. As detailed within the supporting text to Saved Policy H4 of the City of Southampton Local Plan Review<sup>1</sup> (LPR) and the HMO SPD, the objective is to avoid a concentration of HMOs, due to concerns regarding the social and environmental problems that such uses are thought to pose, and the effect that this can have on balanced residential communities.
8. The assessment to establish the concentration of HMOs in a particular area includes all properties which have all or part of their curtilage within a 40-metre radius of the application site. In instances where the circle includes less than 10 residential properties, the threshold will apply to the 10 properties which are nearest to the application site. As detailed within the Council's submissions, the concentration of HMOs within the identified area is currently 63% and would increase to 75% as a result of the proposal, thus exceeding the 10% threshold significantly. This is not disputed by the appellant.
9. The HMO SPD recognises that there may be exceptional circumstances, where the concentration of HMOs is at such a point that the introduction of new HMOs would not change the character. The research carried out by the appellant indicates that within that frontage, there are three additional HMOs. Whilst these properties fall outside the identified area, they nevertheless form an integral part of the cohesive row of semi-detached properties framed by the petrol station to one side and Dahlia Road to the other. Excluding the appeal site, this means that within that frontage, 80% of these properties are presently occupied as HMOs.
10. If the threshold has been breached already, the HMO SPD advises that planning permission will only be granted in exceptional circumstances, that is where the concentration of HMOs has reached such a high level that the introduction of any new HMO would not change the character. Given the high proportion of HMOs along that section of Burgess Road between Glen Eyre and Dahlia Roads, there may be exceptional circumstances to allow the change of use of the appeal premises to HMO accommodation. This is in my view strengthened by the fact that the site lies directly opposite to the University Campus and within an accessible location, thus making it particularly attractive and convenient for students.
11. To establish whether the change of use of the appeal premises constitutes exceptional circumstances, the HMO SPD requires the submission of a supporting statement. However, in the absence of such statement and marketing evidence in particular, it cannot be established with certainty that there is no reasonable demand for the appeal premises to be used as a C3 dwellinghouse. Consequently, the appeal scheme does not meet the exceptional circumstances set out by the HMO SPD.
12. By virtue of its occupation as a C4 HMO, the building is highly likely to be occupied by 5 unrelated individuals living as separate households and who, as a result, cumulatively generate a greater number of comings and goings than if the property was occupied as a C3 dwellinghouse by a single family. The use of two of the ground floor rooms as separate bedrooms only leaves the kitchen as a communal area, and reflects the intensification of activity compared with the

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<sup>1</sup> Amended March 2015.

occupation of the property by a single family. As a result, there is no doubt that the conversion of the appeal premises to a C4 HMO has led to an intensification of activity on the site, despite its location. Such an intensification has a harmful effect on the character of the surrounding area, as it unbalances the existing community to a degree which the HMO SPD seeks to restrict.

13. In the absence of exceptional circumstances, I conclude that the appeal development adversely affects the character and amenity of the area, having regard to the mix and balance of households in the local community. Consequently, it conflicts with Saved Policies SDP1(i) and H4(ii) of the City of Southampton LPR, Policy CS16 of the City of Southampton Local Development Framework Core Strategy Development Plan Document<sup>2</sup> and the HMO SPD. These notably seek to ensure that a mix of housing types and more sustainable and balanced communities are provided in the area, and that HMO uses are not detrimental to the overall character and amenity of the area.
14. Both parties have drawn my attention to a number of appeal decisions. However, the circumstances of each case are inevitably different, as do the specific locations for each appeal. These decisions have therefore not affected my findings in this decision.

### **Conclusion**

15. There are no material considerations, which indicate that the appeal should be determined, other than in accordance with the development plan. For the reasons detailed above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*S Edwards*

INSPECTOR

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<sup>2</sup> Amended March 2015.