

Southampton City Council - Planning Development Control Delegated Report

Case Ref:12/01723/FUL	Case Officer: Steve Lawrence
Registered Date:09/11/2012	Application Type: FUL
Consultation Expiry Date:	Application Expires:04/01/2013

1. Application Address:

5 Crofton Close

2. Proposal Description:

Retrospective application for the use of the property for an eight-person house in multiple occupation (House in Multiple Occupation) (Sui Generis Use).

3. Site & Surrounds:

Site visit date: 5.12.2012	Photographs Taken: Y	Consults Checked on site: Y
-------------------------------	----------------------	-----------------------------

Residential cul-de-sac largely comprised of detached houses. Carriageway restricted in places to favour the pedestrian. Mostly in cartilage parking but some visitor spaces on street.

Landscaped strip separates Crofton Close from mostly family housing in Oakmount Avenue to south.

Private driveway leads up to 5 Crofton Close and gate to landscaped strip referred to above. That driveway blocked by two parked cars at time of my (midday) visit. Parking generally available in Oakmount Avenue (see photos).

40m radius survey undertaken for sake of completeness. Of the 15 properties, 2 including application site 13.3% are HMO's. These proposals do not alter that circumstance.

Internal inspection made of No. 5. 3 people at home, but confirmed that 8 (university students) occupying and have done so since 10.7.2010 (i.e. tenants in their second year of occupation/study).

Could not access former lounge that is now being used as a bedroom, but occupier of adjoining bedroom showed me former double door opening between lounge and his room formerly the dining room and that reverse of opening had been boarded up in room I could not access.

Double garage not being used as sleeping accommodation at time of my visit, nor being used to park vehicles either. Photographs taken.

Tenant stated that 3 of the 8 occupiers owned cars, kept at the property.

Conservatory space and garden also viewed along with first floor rooms.

4. Development Plan Policies/guidance of relevance:

Having regard to paragraph 214 of the National Planning Policy Framework dated 27 March 2012 the following policies and saved policies which have been adopted since 2004 retain there full material weight for decision making purposes.

City of Southampton Local Plan Review (2 March 2006) Other Policy - SPG etc. to

SDP1 (Quality of Development)
SDP7 (Context)
H4 (Houses in multiple occupation)

note:
HMO spd

Local Development Framework Core Strategy
Development Plan Document (January 2010)

CS13 (Fundamentals of Design)
CS16 (Housing mix and type)

The policies of the South East Plan, Southampton's Core Strategy and Local Plan Review have been taken into account in the consideration of this application. The Core Strategy is in general conformity with the South East Plan, and it is not considered that the policies in the South East Plan either conflict with or add particular weight to the policies in the Core Strategy for this application. Consequently only the local statutory development plan policies (Core Strategy and Local Plan Review) have been cited in this report.

If this report is being read as part of an eventual householder appeal, the Inspector's attention is drawn to Appendix 'M' of the adopted residential design guide. This details the 2 year programme of public participation that took place prior to being adopted. This includes stakeholder design workshops, where completed residential developments were reviewed and extant guidance of the new residential standards development control brief (1989) evaluated. Part of this evaluation included a review of some 200 relevant appeal decisions between 1989-2004. As such, the Local Planning Authority affords significant weight to the Council's Supplementary Planning Guidance.

5. Relevant Site History and Land Uses:

Application site is part of former grounds to 'Oakmount' developed under planning permission 900255/W (CAP - 29/08/1990).

Unauthorised alterations made to garage to allow its use as extra living accommodation prompted complaint to LPA under enforcement reference 06/00252/ENCOU on 01.07.2006.

Retrospective application made for relief from condition 16 to 900255/W under reference 06/01301/VC. That application refused at 10.10.2006 PRow Panel (despite favourable officer recommendation) 12.10.2006 for following reasons:-

01. The development has resulted in the loss of existing garage parking spaces and enabled an increased level of occupation of the dwellinghouse with more limited on site parking spaces. This is likely to result in additional car parking in the shared access road serving this and other dwellings and on Crofton Close. This impact would be harmful to the character of the surrounding area and to the amenities of nearby residents by reason of the increased congestion of vehicles in the shared access and on nearby roads contrary to policies SDP1, SDP3 and SDP5 of the City of Southampton Local Plan Review March 2006.

02. The development the subject of the application if approved could set an undesirable precedent for other similar development in the surrounding area the consequence of which would be the erosion of the character and amenity of the area leading to conflict with policy SDP1 of the City of Southampton Local Plan Review March 2006.

- and then dismissed at Appeal 12.09.2007 (Inspector's decision attached to this file).

In interim planning Enforcement Notice served 18.12.2006 against breach of Condition 16 to 900255/W, essentially requiring reinstatement of double garage and cease of its use as additional loving accommodation.

10/12/08 – compliance with Notice's requirements confirmed (day matter was due to be prosecuted in court).

Further retrospective application to use half of the double garage space as living accommodation made 06.11.2007 under reference 07/01790/VC also refused (despite favourable officer recommendation at 08.01.2008 PRow Panel) 10.01.2008 for following reasons:-

01. The development would result in the loss of an approved garage parking space and would enable an increased level of occupation of the dwellinghouse with more limited on site parking spaces. This is likely to result in additional car parking in the shared access road serving this and other dwellings and on Crofton Close. This impact would be harmful to the character of the surrounding area and to the amenities of nearby residents by reason of the increased congestion of vehicles in the shared access and on nearby roads contrary to policies SDP1, SDP3 and SDP5 of the City of Southampton Local Plan Review March 2006.

02. The development the subject of the application if approved could set an undesirable precedent for other similar development in the surrounding area the consequence of which would be the erosion of the character and amenity of the area leading to conflict with policy SDP1 of the City of Southampton Local Plan Review March 2006.

Enforcement officer file note under 10/00094/ENUDEV dated 26.3.2010, reads:-

"Have also spoken to the lettings manager at Location Estate Agents in Shirley.

She confirmed that they are in process of getting references for the 8 tenants due to move in this summer.

But as yet no tenancy agreement has been signed".

On 6.4.2010 changes to the Use Classes Order came into effect nationally, introducing a Class C4 – occupation by between 3-6 unrelated persons and a sui generis category of residential occupation by more than 6 unrelated persons, whereby a move between classes C4 and C3 was permitted development. If local authorities wished to control C3 to C4 changes they were invited to introduce an Article 4 (1) Direction to achieve that. SCC's Article 4 (1) came into force on 23.3.2012. At that time, electoral roll evidence shows 8 persons to be residing at the application address.

Further complaint 02.03.2012 under reference 12/00042/ENCOU that property being occupied by 8 persons has resulted in the submission of current application. Environmental Health Service advised at that date that –

*“I’m not sure how much you are aware of our involvement in this property. We served an overcrowding notice as one of the bedrooms was accessed through another bedroom. ***** then altered the layout of the property to allow appropriate access to the rooms, and we are going to lift notice as we are happy that the property layout is now suitable for 8 people”.*

Occupation by 8 tenants confirmed by enforcement inspection 7.3.2012. Follow up letter to owner 14.3.2012 warns of possibility of further enforcement notice being served if retrospective planning permission not obtained. Follow up letter sent 22 May 2012 (owner had been out of the country until 15/04/12). Application first made invalid 26.7.12.

PCN served 4.9.2012 to ascertain among other matters names of all those residing and use of each room shown on floor plans. Incomplete response to PCN received 2.10.2012. 8 tenants confirmed albeit claiming each tenancy only commenced 1.7.12 and that use of each bedroom only commenced on that date. No annotated floor plans received either.

6. Consultation Response Summary:

Highways Development Management – This site comprises large family homes with on site parking, serve by quiet narrow residential streets, some constructed as shared surface.

The property in question benefits a double garage with forecourt parking, effectively providing 4 parking spaces. However, with people living independently in an HMO, it is difficult to make this sort of parking work, as residents will block one another in, and residents will be reluctant to use the garage space because of this.

It is not possible to legally restrict or enforce the number of vehicles used by residents of this house. As a result it is likely overspill parking will occur. This will cause overspill parking which could result in on carriageway parking, which would harm the amenity of the surrounding residents.

There is risk that people will drive into the private drive which provides access to this property, find the driveway blocked, and then need to reverse out, an occurrence which is less likely if the property was occupied by a family. This would be to the detriment of the nearby residents who will suffer increased vehicular movements around their homes, affecting their amenity and ease of movement.

7. Notification Representations:

Number received: 28 letters of objection, including ones from Highfield Residents Association and Ward Councillor Vinson

Summary of Comments:

Amenity issues

- Harm to the character of the area: Portswood Ward already has 10% of housing as HMO’s so inappropriate location
- Additional noise and sleep disturbance. including bad language of tenants impacting family life of neighbours
- Overintensive use of the building, forcing tenants to increased use of conservatory (not insulated) and garden, exacerbating noise and disturbance issues: contrary to paragraph 6.9.6 creating unacceptable living conditions for

tenants. Increase from 6 to 8 residents also found harmful to character/neighbours in recent Appeal decision at 1 Blenheim Gardens

- Property not properly maintained and visually detracts from appearance of area
- Query whether adequate natural light and ventilation to all bedrooms
- Would undermine character and appearance of the adjacent Oakmount Triangle Conservation Area

Highways issues

- Insufficient car parking (in breach of council standards) for that intensity of use, likely to generate on-street parking which this development was not designed to accommodate (as noted by 2 previous Inspectors and cited as likely to harm character and appearance of area): use of garage spaces unlikely if 2 driveway spaces occupied as cars in separate ownership
- Extra traffic posing a hazard, especially to children playing in the street
- Extra traffic/parking on street could obstruct refuse/emergency vehicles: refuse not collected on one occasion because of this issue
- Parking in private driveway blocks maintenance gate to landscaped strip between Crofton Close and Oakmount Avenue and also turning facility there, causing hazardous reversing

Precedent

Other matters

- Query demand for this type of student accommodation given recent increase in tuition fees
- Loss of a family home contrary to Policy CS16
- Query that Class C4 use of property reversionary use, given previous Appeal decisions where use still held to be within Class C3 when 7 were in occupation

Other matters which are not material planning considerations

- Covenant exists preventing business use of the property
- Adverse affect on surrounding property values

8. Planning Considerations:

In view of the previous Planning Inspectors' reasoning that 7 unrelated people occupying the site as a single tenancy still constituted Class C3 use, the proposals here amount to a new HMO. As such, the relevant assessment from the HMO SPD has been applied. The use of the application property has resulted in more than 10% of the properties within a 40m radius of the main front entrance being in HMO use. As such, there is a policy presumption against these proposals to regularise such use, for their harmful impact upon the character of the area. This is manifested in terms of:-

(a) The lack of common reception rooms means that greater communal use is made of the kitchen, conservatory and back garden, occasioning noise and sleep disturbance to occupiers of neighbouring properties, sometimes at unsocial hours, in an area which is predominantly comprised of family housing;

(b) The increased comings and goings to the property from essentially 8 different, independent occupiers, sometimes at unsocial hours, causes general disturbance at the end of a private drive;

(c) Notwithstanding the double garage being available for use, the parking of independently owned vehicles at this property means that the garage is often unused, with cars being parked outside the curtilage, obstructing the private drive and maintenance gate of a landscaped strip between Crofton Close and Oakmount

Avenue and sometimes necessitating on-street parking. This is in a development that was designed to minimise the demand for on-street parking so as to retain the open setting of the development within its overall design philosophy. Such overspill parking has already been held to be harmful to the character of the area by two Planning Inspectors;

(d) The proposals would also result in the loss of a house still capable of occupation by a large family, for which there is a proven need in the city.

The issue of precedent has been given thought. Previous Inspectors were particularly concerned with how the estate had been designed and the justification for keeping garages to park cars in. In this application, the integral garage is still available for use and the condition is no longer being breached. If further applications for sui generis uses were to come forward in Crofton Close, they would be determined on their merits, having regard to the HMO spd which is being used to justify refusal of these proposals. In this instance precedent will not be cited.

Highways DM Team have given carefully consideration to whether highway safety would be adversely impacted, but have concluded that an increase in one person living at the site would not be likely to create such issues, albeit impact to amenity owing to potential overspill parking is accepted as an issue.

Whether or not the demand for student housing is on the wane is not really a material planning consideration, but rather a commercial judgement for the applicant. Covenants are for private parties to enforce and impact to property values is not a material planning consideration.

This application has been determined on its impact to amenity and the character of the area in particular.

9. Recommendation 1:	Refuse
Planning Application Case Officer: Steve Lawrence Signature:	Date of Report: 18.12.2012 Date report submitted:
Authorised Officer for sign off: Signature	Date Report Considered: Date DN to Business Support:
Recommendation 2:	Institute Enforcement proceedings: Issue an Enforcement notice requiring Use as a sui generis HMO of 8 people to cease. Reasoning as per decision 12/01723/FUL

Exception Report (only required if recommendation is made after expiry of 8 week date): N/A.