

# Planning Committee



Application Address	44 West Way, Bournemouth, BH9 3ED
Proposal	Change of use from dwellinghouse (Use class C3) to House in Multiple Occupation (Use class C4) and alterations to approved single storey extensions
Application Number	7-2020-13147-E
Applicant	Mr A. Toros
Agent	Pure Town Planning
Date Application Valid	23 June 2020
Decision Due Date	17 August 2020
Extension of Time date (if applicable)	23 October 2020
Ward	Moordown
Report Status	Public
Meeting Date	15 <sup>th</sup> October 2020
<b>Recommendation</b>	<b>GRANT, in accordance with the recommendation in the report</b>
Reason for Referral to Planning Committee	At the request of Councillor Dunlop for the following reasons:  The applicant is using a change of use from C3 to C4 to seek consent for development carried out without consent and refused in previous applications.
Case Officer	TH

## Description of Development

1. Planning consent is sought for a change of use from dwellinghouse (Use class C3) to House in Multiple Occupation (Use class C4). There are also some minor changes to a previously approved single storey extension shown on the plans.
  2. The applicant has provided the following information: Site and location plan, Proposed floor plans, elevations and sections.
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## **Key Issues**

3. The main considerations involved with this application are:
  - Principle of the HMO use
  - Impact on character and appearance of the area
  - Impact on neighbouring residents
  - Parking/traffic/highway safety considerations
4. These points will be discussed as well as other material considerations at paragraphs 21 to 46 below.

## **Planning Policies**

### **5. Core Strategy (2012)**

Policy CS4 – Surface Water Flooding

Policy CS24 – HMO uses

Policy CS38 – Minimising pollution

Policy CS41 – Quality Design

### **6. Supplementary Planning Documents:**

Residential Extensions: A Design Guide for Householders – PGN (2008)

Sustainable Urban Drainage Systems (SUDS) - PGN

Bournemouth Parking – SPD

### **7. The National Planning Policy Framework (2019)**

Paragraph 11 sets out the presumption in favour of sustainable development. Development plan proposals that accord with the development plan should be approved without delay. Where the development plan is absent, silent or relevant policies are out-of-date then permission should be granted unless any adverse impacts of approval would significantly and demonstrably outweigh the benefits when assessed against the NPPF.

## **Relevant Planning Applications and Appeals:**

8. 7-2019—13147-D: Alterations and second floor extension to dwellinghouse: Refused.
  9. 2019 – Enforcement Notice issued and then appealed: APP/G1250/C/19/3220069: Dismissed and the enforcement notice upheld.
  10. 7-2018-13147-C: Alterations and single storey extension to dwellinghouse- Revised: Refused.
  11. 7-2018-13147-B: Alterations and single storey extension to dwellinghouse - Revised application: Granted.
  12. 7-2017-13147-A-(TPD): Prior notification procedure - for the erection of a single storey rear extension that measures 6m in projection from the rear wall and a maximum of 3m in height with a flat roof: Granted.
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13. 7-2017-13147-A: Alterations and single storey extension to dwellinghouse: Granted.
14. 7-2017-13147-(TPD): Prior notification procedure for the erection of a single storey rear extension that measures 8m in projection and 4m in height with a flat roof: Refused.
15. 7-1983-13147: Erection of Detached Garage: Granted.

### **Representations**

16. Site notices were posted in the vicinity of the site on 21/07/2020 with an expiry date for consultation of 14/08/2020.
17. 8 representations have been received, all raising objection. The issues raised comprise the following:-

*Extension not built as approved/too large/unsightly*  
*HMO out of keeping in the area*  
*Parking issues*  
*Anti-social behaviour*

18. The following issues raised are not material planning issues:

*Boundary dispute*  
*Loss of property value*

### **Consultations**

19. None

### **Constraints**

20. There are no site-specific constraints.

### **Planning Assessment**

#### **Site and Surroundings including site history**

21. No.44 West Way is a hipped-roofed detached dwellinghouse. It is sited within a corner plot at the junction of West Way and Brockenhurst Road. The latter forms the northern boundary that then curves back around the site at a lower level. The area is residential in character containing a mix of dwelling types including detached two storey houses and bungalows in good sized plots. West Way is a busy wide tree-lined road linking Charminster Road and Castle Lane West.
  22. The application property is an attractive building of good character and spacing, and one that makes a positive and prominent contribution to the local street scene and area. Originally of a modest footprint, successive and successful applications for various single-storey elements and additions have effectively been accreted to allow a large 'L' shaped single-storey skirt around the NW and NE elevations.
  23. The consent 7-2018-13147-B combined two extant approvals with proposed additional expansion. This raised some concerns about the continuing increase in development regarding a potential tipping towards a disproportionate and adverse size and scale.
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24. Following the above consent and the demolition of the detached side garage, construction works began on an 'L' shaped footing. However, on progression, it became evident that the extension skirt being constructed was not being built in accordance with approved plans. It included a new section of unauthorised development sited directly along the boundary with No.42 West Way, further out than the approved and set-back linking component.
25. Following an enforcement visit to the site by the authority a new planning application (7-2018-13147-C:) was submitted incorporating the additional footprint. Site visits by the case officer and discussions onsite with the applicant illustrated that the unauthorised works were continuing to near completion for use by the occupants. However, as well as those works not being in accordance with 7-2018-13147-B, they did not actually match what was being applied for under 7-2018-13147-C.
26. The lack of design accord with the planning application and plans was duly raised. However, amended plans were not received and the application 7-2018-13147-C was assessed on its merits as applied for and ultimately refused due to excessive size and poor design resulting in a harmful impact on the character of the area and neighbouring residents.
27. Following this refusal an enforcement notice was served regarding the unauthorised works. This was then appealed (APP/G1250/C/19/3220069). That appeal was dismissed, and the enforcement notice upheld requiring compliance. The appeal decision is appended to this report. A further application for a two-storey extension was also subsequently refused.
28. This proposal for a change of use to an HMO use, also proposes some minor changes to the most recently approved scheme for a single storey extension (7-2018-13147-B). These changes will be discussed in the report where relevant, but essentially the enforcement appeal was dismissed due to poor design of the extension as built, with a flat roof and large soffit overhang, and also the proximity of the extension to the neighbouring property at number 42 causing an overbearing impact. The application here adds a pitched roof to the as-built flat roof extension, removes the larger overhang, and moves the footprint back away from the neighbouring property.

## **Key Issues**

### Principle of HMO use

29. A change of use of the property is sought from a residential dwellinghouse to a House in Multiple Occupation (HMO) in Use Class C4, for 3-6 people.
  30. The existing property has been substantially extended on the ground floor, as discussed above. There are four first floor bedrooms in the existing property. The proposed change of use entails changes to the layout to provide four ground floor bedrooms and use two of the first floor bedrooms, retaining the other two first floor bedrooms as communal areas. There will therefore be six bedrooms in total and a number of shared rooms including two living rooms, kitchen, utility room, store room, two offices, two bathrooms and an additional w.c.
  31. Planning permission would not normally be required for the change of use to C4. However, the Council made an Article 4 Direction on the 15th December 2010 under Article 4(1) of the Town and Country Planning (General Permitted Development) Order 1995, as amended. An 'Article 4 Direction' is a planning tool that can be used to remove permitted development rights from a particular type of development. The Direction relates to
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development consisting of a change of use of a building to a use falling within Class C4 (houses in multiple occupation), from a use falling within Class C3 (dwellinghouses) and removes permitted development rights for this type of development from when the Direction came into force on the 16th December 2011. Therefore, planning permission is required for the change of use from Class C3 to Class C4.

32. As the Council has issued an Article 4 Direction to prevent these types of development taking place without planning permission, consideration must be given to the reasons behind this. In introducing the Article 4 direction the Council considered that the concentration of HMO properties was causing tension to existing residents. Commonly university and coastal towns experience higher rates of HMO uses and consequently higher rates of associated negative impacts on the amenities of local residents and on the character of the area. These tensions and issues are recognised nationally and can include anti-social behaviour; noise and nuisance from properties and on the street; imbalanced and unsustainable communities; negative impacts on the physical environment and streetscape; pressures on parking provision; untidy gardens; higher than average occurrence of to-let boards and the accumulation of rubbish. Even though high concentrations of HMOs are associated with specific wards, a Borough wide Article 4 Direction has been introduced in order to limit the likelihood of the impacts associated with concentrations of HMOs being dispersed to other parts of the town. A Borough-wide approach therefore enables the Council to deal with problems associated with concentrations of HMOs in a timely fashion controlling the emergence of new concentrations of HMOs and limiting additional numbers in areas already impacted upon.
33. Policy CS24 of the Bournemouth Core Strategy refers to Houses in Multiple Occupation. This states that the change in use of Class C3 to Class C4 will only be permitted where no more than 10% of dwellings in the area adjacent to the application property are within Use Class C4 or larger 'Sui Generis' HMO use. In light of this policy an assessment of the existing numbers of HMO uses has taken place, which involves using a data base of registered HMO uses, examining Council Tax exemptions for student housing, and other data, as well as a site visit to the area. This assessment determines if there are a high number of HMO uses in the locality. Assessing the proposal in line with the policy identifies a total of 49 properties would have some part of the curtilage within 100m of the application site on the streets that form part of the policy requirement, including flats. None of these properties are known to be within a current C4 HMO use, and there are two properties where there may be potential HMO use based on the number of occupants, but this is not known for certain. However, even if those two properties are included this would equate to fewer than 10% of the existing properties falling within a HMO use, at 4%. Implementing this proposal would take it to a maximum of 6%.
34. In this particular case the area generally contains traditional family sized houses and is outside of the areas typically associated with university students and HMO properties (such as Winton and Charminster for example). The proposed change of use would therefore be acceptable in principle based on the requirements of Policy CS24, which aims to restrict concentrations of HMO uses below 10% to maintain a balanced population. It is not considered that the point has been reached where the character of the area and balance of the population have been harmfully affected in the immediate area, or would be adversely affected to an unacceptable degree with a class C4 HMO.

#### Impact on the character and appearance of the area

##### *HMO Use*

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35. Material planning considerations do also include the intensity of use and its impact on the character of the area. A six bedroom HMO could contain a similar or slightly greater number of occupants to a three/four bedroom dwelling, with six adult individuals having their own visitors and deliveries which could potentially result in more comings and goings over those of one self contained household (family). However, the use class allows up to six occupants and would ordinarily be permitted development, indicating that in terms of planning legislation the uses on an individual level would not be harmfully more intensive. Therefore, the conversion of the property to a Class C4 HMO would not increase intensity of this use to a degree that would be harmful to the character and appearance of the area, as the cumulative impact has not reached a critical point in this location. Such a use is therefore considered acceptable and would not be harmful to the character and appearance of the area.
36. The property is large and can potentially be occupied by more individuals, but an informative note has been added to remind the applicant that more than six residents would require a further planning application for a larger HMO (Sui Generis).

#### *Physical alterations*

37. There is substantial planning history on the site. The single storey wraparound extension proposed here differs from the most recent approval under application 7-2018-13147-B in the following ways:
- The side extension steps back 300mm from the front of the building instead of the previously approved 600mm;
  - The rear extension is 600mm closer to the side boundary with number 42 West Way;
  - The eaves line is raised by approximately 250mm with a shallower area of roof, maintaining the same ridge height;
  - Change to window sizes and locations on the side and rear.
38. In dismissing the enforcement appeal the Inspector considered that the 'as built' extension with its flat roof and significant roof overhang was "*out of character with the host property and a visually discordant presence in the street scene*". The extensions shown on the plans under this application represent a compromise somewhere between the approved extensions and those dismissed at appeal. For example, on the plans the overhang criticised by the Inspector is removed and a pitched roof added to the flat roof, up to the ridge height of the previously approved extension. It will appear a little squat, but overall the added roof helps to tie the extension in with the existing house and the removed overhangs improve the appearance. Most of the remedial work has already been undertaken in recent weeks.
39. The existing property is bound on the northern side to Brockenhurst Road by a block wall with trellis on top and planting behind. This has been extended slightly to the front to line up with the front of the side extension. The road is at a lower level than the extension, so the height is not considered harmful to the character of the area and helps to soften the impact of the large side extension to a degree, particularly when the planting matures.
40. Overall, it is considered that the extension as shown on the plans would not be harmful to the character and appearance of the area.

#### Impact on neighbouring residents

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41. The application site occupies a corner plot with a directly adjoining neighbouring property to the south and one to the rear in Brockenhurst Road. The property immediately to the north on the opposite side of Brockenhurst Road is used as a children's day nursery.

*HMO use*

42. It is considered that the conversion of the property into a Class C4 HMO could increase intensity of use of the site to a degree, but not to a point that would be materially harmful in this location. There is potential for more occupants, more comings and goings, more vehicles and other impacts than if occupied as a single family dwelling. There is therefore a greater potential for noise and disturbance, and erosion of the neighbouring amenities and the quiet enjoyment of their properties. However, this is a change of use that would normally be permitted development and only requires assessment in this case in terms of the concentration of HMO uses in the locality. It is considered that an additional C4 HMO for six persons in the area would not affect neighbouring residential amenities to an unacceptable degree, and would not be contrary to Policies CS24 and CS41 of the Core Strategy.

*Physical alterations*

43. The extension as built and subject to the enforcement appeal extended up to the boundary with number 42 West Way at the rear and had a large roof overhang, which the Inspector stated "*has an oppressive and enclosing effect on the outlook from the part of the rear garden nearest the house, commonly used for sitting out*". It was also however stated that "*Demolishing the part of the extension nearest to No 42 would potentially overcome concerns related to living conditions of the occupants of No 42*". Indeed, that is what is proposed under this application. The rear extension has been moved approximately 1.7 metres in from the previous location adjacent to the boundary. While this is not quite as far as previously approved under application 7-2018-13147-B, it is considered that it is sufficient with the removal of the roof overhang to overcome the Inspector's concerns. The addition of a pitched roof increases the overall height but only modestly and it slopes away from the boundary.
44. A section of 2 metre high brick walling had already been built along the boundary between No.'s 44 and 42, as shown on the approved application 7-2018-13147-B. Although not of a particularly positive design it was considered functional and of a height not too dissimilar to boundary fencing. The wall remains here in the form of part of the now demolished wider element of extension. There is some dispute between the two properties as to the exact boundary position, but that is not a relevant planning matter for the determination of this application.
45. A raised rear patio area is also proposed here. The area of the patio is a little larger (deeper) than that previously approved, but it is considered that this area and the height of the patio area are not excessive. It can be screened by an appropriate height fence or side screen, details of which can be provided by condition.

**Parking/traffic/highway safety:**

46. The proposed use would not be significantly more intensive than a family dwellinghouse and would not lead to a harmful impact in terms of traffic or highway safety. It is only where there are greater than 10% of properties in HMO use that cumulative issues are considered to emerge to the point where they would begin to have a harmful impact on the area, which would include parking. Notwithstanding this, in this particular case the application property has a large open forecourt area with off street parking for approximately four vehicles, which is in line with the current Bournemouth Parking SPD. No cycle store is shown on the
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plan but there is space within the curtilage to provide one so this can be the requirement of a condition.

## **Community Infrastructure Levy**

47. The proposal is not liable for a CIL charge.

## **Summary**

48. It is considered that:

- The proposed HMO use would not lead to an over-concentration of HMO uses and is therefore acceptable in principle
- The proposed use and physical alterations would not be harmful to the character and appearance of the area
- The proposed use and physical alterations would not have a materially harmful impact on the living conditions of neighbouring residents
- The proposal is acceptable in terms of parking, traffic and highway safety considerations

## **Planning Balance**

49. The property is not in an area which has a high number of HMO properties and therefore the change of use would not lead to an overconcentration of such uses. The extensions shown on the plans are slightly weaker in design terms than originally approved in 2018 but the changes made are considered sufficient to overcome the Inspector's concerns in terms of the impact on the character of the area and neighbouring residents.

50. Therefore, having considered the appropriate development plan policy and other material considerations, including the NPPF, it is considered that subject to compliance with the conditions attached to this permission, the development would be in accordance with the Development Plan, would not materially harm the character or appearance of the area or the amenities of neighbouring and proposed occupiers and would be acceptable in terms of traffic safety and convenience. The Development Plan Policies considered in reaching this decision are set out above.

## **Recommendation**

51. **GRANT permission with the following conditions, which are subject to alteration/addition by the Head of Planning Services provided any alteration/addition does not go to the core of the decision:**

1. **Development to be carried out in accordance with plans as listed:**  
The development hereby permitted shall be carried out in accordance with the following approved plans: J.39.2017-01 and J.39.2017-28.

**Reason:** For the avoidance of doubt and in the interests of proper planning.

2. **Materials to match**  
Notwithstanding the details included on the application form the materials and colours to be used in the construction of the external surfaces of the extensions hereby permitted shall match the elevations to which the extension is to be added
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and such work shall be completed prior to occupation of the development granted by this permission.

**Reason:** To ensure a satisfactory visual relationship between the existing and the new development in accordance with Policy CS41 of the Bournemouth Local Plan: Core Strategy (October 2012).

**3. Boundary treatments**

Prior to the construction of the raised patio area hereby approved details of an appropriate glazed or equivalent side screen or appropriate height boundary fence shall be submitted to and approved in writing by the Local Planning Authority. The approved screen or boundary fence shall be installed prior to the first use of the patio area hereby approved and retained and maintained in perpetuity thereafter.

**Reason:** To avoid loss of privacy for adjoining properties in accordance with Policy CS41 of the Bournemouth Local Plan: Core Strategy (October 2012).

**4. No Permitted Development rights for windows/dormer windows**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 2015 (or any order revoking and re-enacting that Order with or without modification), no additional windows shall be installed in the south-east elevation, or in the roof of, the extension hereby permitted, without the grant of further specific planning permission from the Local Planning Authority.

**Reason:** To avoid loss of privacy for adjoining properties in accordance with Policy CS41 of the Bournemouth Local Plan: Core Strategy (October 2012).

**5. Windows to south east side to be obscure glazed**

The proposed windows in the South-East elevation shall be glazed with obscure glass to a level equivalent to Pilkington Level 3 or above (or the nearest equivalent standard) and fixed shut, and shall be permanently retained as such unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To protect the amenity and privacy of adjoining properties and in accordance with Policy CS41 of the Bournemouth Local Plan: Core Strategy (October 2012).

**6. Informative Note: C4 Use only**

INFORMATIVE NOTE: This consent gives permission for a House in Multiple Occupation for 3-6 persons under Class C4 of the Use Classes Order. The maximum number of occupants permitted is therefore six, and any more would constitute a change of use for which planning permission would be required.

**Statement required by National Planning Policy Framework**

51. In accordance with paragraph 38 of the NPPF the Council takes a positive and proactive approach to development proposals focused on solutions. The Council work with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service,
- as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions,

In this instance:

the application was acceptable as submitted and no further assistance was required.

**Background Documents:**

**Case File – ref 7-2020-13147-E**

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.  
Background Documents

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