Executive Summary

Reason for referral

This application has been referred to the Planning Committee because more than 10 letters of objection have been received, contrary to the Officer's recommendation.

Key information

The application relates to a two storey semi-detached property located on the southern side of Stoke Road, a cul-de-sac which runs parallel to the main Stoke Road. The site is within the Guildford Urban Area and is within the 400-5km buffer zone of the Thames Basin Heaths Special Protection Area.

The building currently has consent to be used as a C4 House in Multiple Occupation (HMO) which is defined as the use of a dwellinghouse by not more than six residents as a house in multiple occupation.

Summary of considerations and constraints

The proposal is considered to represent appropriate development in this urban area location close to the Town Centre.

The proposed intensification of the existing C4 HMO to a large HMO of 10 bedrooms and 10 people has been considered in the context of the use of the existing building and the existence of two other large HMOs in the vicinity. It is considered that the proposal would not have a detrimental impact on the character of the site and surrounding area, neighbouring amenity or highway safety.

The applicant has agreed to sign a S106 to secure the required financial contributions towards SANG and SAMM in line with the Council's adopted TBHSPA Avoidance Strategy 2017

The proposal is therefore recommended for approval.
RECOMMENDATION:

(i) That a S.106 agreement be entered into to secure:

- A SANGS contribution and an Access Management and Monitoring Contribution, in accordance with the adopted tariff of the SPA Avoidance Strategy, to mitigate against the impact on the Thames Basin Heaths Special Protection Area.

(ii) That upon completion of (i) above, the application be determined by the Director of Planning and Regeneration. The preliminary view is that the application should be granted subject to conditions.

Approve - subject to the following condition(s) and reason(s) :-

1. The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, Sheet 1 of 5, Sheet 2 of 5, Sheet 4 of 5 and Sheet 5 of 5 received 1 November 2017 and Sheet 3 of 5 received 3 January 2018.

   **Reason:** To ensure that the development is carried out in accordance with the approved plans and in the interests of proper planning.

2. The bin store and bike store facility shown on the approved Block Plan (Sheet 5 of 5) shall be retained for use by the occupants of the development at all times.

   **Reason:** To ensure that satisfactory facilities for the waste, recycling and bike storage are provided.

3. The parking area to the front of the property shall be retained in accordance with the approved plans at all times.

   **Reason:** To ensure that satisfactory facilities for the parking are provided.

4. The HMO hereby approved shall be restricted to no more than a maximum of 10 bedrooms and 10 persons.

   **Reason:** The further subdivision of the property to form more than 10 bedrooms would result in an increase in the number of residential units which would have an adverse effect on the integrity of the Thames Basin Heaths Special Protection Area and the relevant Site of Special Scientific Interest (SSSI).
Informatives:

1. The applicant is advised that they must also obtain an HMO licence at this property for 10 people in order to regularise the current situation. This permission does not affect or override the licence requirements.

2. The applicant is reminded that the permission hereby granted is solely for a sui generis HMO for up to 10 people. The occupation of the property with more than 10 people could result in a material change of use of the property and would require further planning permission.

3. This statement is provided in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. Guildford Borough Council seek to take a positive and proactive approach to development proposals. We work with applicants in a positive and proactive manner by:

   - Offering a pre application advice service
   - Where pre-application advice has been sought and that advice has been followed we will advise applicants/agents of any further issues arising during the course of the application
   - Where possible officers will seek minor amendments to overcome issues identified at an early stage in the application process

However, Guildford Borough Council will generally not engage in unnecessary negotiation for fundamentally unacceptable proposals or where significant changes to an application is required.

In this case pre-application advice pre-application advice was not sought prior to submission but the application was acceptable as submitted.

4. Surface Water Drainage - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. The contact number is 0800 009 3921. Reason - to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.
Officer's Report

Site description.

The site is two storey semi-detached property located on the southern side of Stoke Road, a cul-de-sac which runs parallel to the main Stoke Road. The site is within the Guildford Urban Area and is within the 400-5km buffer zone of the Thames Basin Heaths Special Protection Area.

The building currently has consent to be used as a C4 House in Multiple Occupation (HMO) which is defined as the use of a dwellinghouse by not more than six residents as a house in multiple occupation.

Proposal.

Change of use of premises from Class C4 house in multiple occupation to a large house in multiple occupancy accommodating up to 10 people (sui generis) (retrospective application).

Officer note: the description has been changed to retrospective following confirmation that the site is currently being rented out to 10 individuals.

Relevant planning history.

<table>
<thead>
<tr>
<th>Reference:</th>
<th>Description:</th>
<th>Decision Summary:</th>
<th>Appeal:</th>
</tr>
</thead>
<tbody>
<tr>
<td>16/P/02494</td>
<td>Change of use of premises from Class C4 House in Multiple Occupation to a large house in multiple occupancy accommodating up to 12 people (sui generis).</td>
<td>Refused at committee 21/04/2017</td>
<td>N/A</td>
</tr>
<tr>
<td>14/P/00416</td>
<td>Change of use from a bed and breakfast and single dwelling to a house of multiple occupancy (C4) (retrospective).</td>
<td>Approve 12/11/2014</td>
<td>N/A</td>
</tr>
<tr>
<td>13/P/00210</td>
<td>Change of use from bed and breakfast to a house of multiple occupancy.</td>
<td>Withdrawn 18/07/2013</td>
<td>N/A</td>
</tr>
<tr>
<td>02/P/00122</td>
<td>Change of use of existing 8 bedroom family house to 5 bed guest house with 4 family bedrooms.</td>
<td>Approve 13/03/2002</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Other relevant planning history:

14/P/00417 Change of use from a bed and breakfast and single dwelling to a large house of multiple occupancy with ten rooms (sui generis) (retrospective). N/A

14/P/00415 Change of use from a bed and breakfast and single dwelling to a large house of multiple occupancy (HMO) with ten rooms (sui generis) (retrospective). N/A
Consultations.

Statutory consultees

County Highway Authority: no objection. Parking in the area is controlled and the site is located in a sustainable location.

Thames Water: no objection with regard to sewerage and water infrastructure capacity

Third party comments:

14 letters of representation have been received raising the following objections and concerns:
- the Council has already refused a previous application to extend the size of this HMO to 12 people
- this is only a small change to the refused scheme - no material difference
- previous concerns and reasons for refusal have not been addressed.
- increase in traffic and not enough parking
- sewerage and drainage infrastructure already at capacity
- increase in noise, anti-social behaviour and litter
- increase in light pollution
- inappropriate use - impact on character and appearance of area
- not adequate storage for rubbish and recycling bins, creating lots of mess
- no wheelchair access and fire safety concerns [Officer note: this is not a planning consideration - an HMO licence is also required]
- no rear access road
- unduly large and no communal areas - overcrowding
- loss of privacy
- management of HMOs in street is poor
- poor house maintenance [Officer note: this is not a material planning consideration]
- insufficient shared facilities within the property [Officer note: this is an issue considered by the HMO Licencing process]
- concerns over accuracy of application documents
- worrying that statement says that the property could accommodate up to 18 people.
- fewer families attracted to the area.

Planning policies.

National Planning Policy Framework (NPPF)
Core planning principles
Chapter 6. Delivering a wide choice of high quality homes
Chapter 7. Requiring good design
Chapter 9. Protecting Green Belt land
Chapter 11. Conserving and enhancing the natural environment

South East Plan 2009:
NRM6 Thames Basin Heath Special Protection Area

Guildford Borough Local Plan 2003 (as saved by CLG Direction 24 September 2007):
G1 General Standards of Development
G5 Design Code
H7 Conversions
Emerging Local Plan:
Paragraph 216 of the NPPF states that decision makers may give weight to relevant policies in emerging local plans. Work is ongoing on the emerging Guildford Local Plan. One round of formal public consultation on the Local Plan Strategy and Sites took place over the summer of 2014, followed by a further (Regulation 19) consultation in June-July 2016. A targeted consultation was undertaken in the summer of 2017 following further changes to the draft Local Plan. The draft Local Plan was submitted for examination in December 2017. Given the early stage in the local plan process, it carries very limited material weight at this time.

Supplementary planning documents:
Planning Contributions SPD (2017)
Sustainable Design and Construction SPD (2011)
Thames Basin Heath Special Protection Area Avoidance Strategy (2017)

Other relevant documents:
The Habitats Regulations 2017
DCLG Circular 06/2005
Managing Natura 2000 sites

Planning considerations.

The main planning considerations in this case are:
- principle of development
- the impact of the development on the site and the character of the area
- the impact on neighbouring amenity
- highway and parking considerations
- sustainability
- Thames Basin Heaths Special Protection Area
- legal agreement requirements
- presumption in favour of sustainable development

Principle of development

The principle of allowing the property to be used as a House in Multiple Occupation at this property was accepted under the 2014 application ref. 14/P/00416 for the change of use of the building to a C4 use. The Class C4 use allows for the use of a dwellinghouse by not more than six residents, who are generally unrelated, as a house in multiple occupation. Once an HMO is proposed with more than 6 residents there is no specific use class for such a use and therefore the increase from 6 to 10 people results in a material change of use to a sui generis HMO use.

No in-principle objection was raised under the previously refused application 16/P/02494 which was for a material change of use of the property from a C4 HMO to a sui generis HMO for up to 12 people. The two main issues raised under this refused application related to the impact of the proposal on the environmental, amenity standards and enjoyment of neighbouring occupants and the inadequate provision of off-street parking leading to increased pressure on on-street parking.

The key considerations in this case will therefore be the impact of a 10 person HMO on the character of the site and surrounding area, impact on neighbouring amenity and highway/parking consideration.
The impact of the development on the site and the character of the area

The application does not propose any external alterations or additions to the building. There would therefore be no visual impact on the appearance of the building or to that of the surrounding area. The site has an adequately sized rear garden, waste and cycle storage and amenity area to support the use of the building as a 10 bedroom, 10 person, HMO without detriment to the scale and character of the site.

It is noted that concerns have been raised regarding the impact of the change of use of this property on the residential character of the surrounding area. However the existing context of the site and surrounding area must be considered given that essentially this proposal is adding only 4 more HMO rooms to an existing C4 HMO.

This site is located within the urban area of Guildford, in a sustainable location, and in an area which is characterised by a mixture of single family dwellings, flatted developments and existing HMOs of which this site is already a Class C4 HMO. 113 and 121 Stoke Road are already large ten bedroom HMOs. It is also of note that the previous lawful use of this property and both 113 and 121 Stoke Road prior to the 2014 applications were that of a mixed use of B & B and single dwelling house.

It is therefore considered that this part of the road has a mixed residential character and has historically had properties other than just single family dwellings. It is therefore considered that the addition of four extra HMO rooms in an existing HMO and in an area that already has two other large HMOs (a current total of 26 HMO rooms in use), would not have a detrimental impact on the existing residential character of the site and surrounding area.

The concerns raised regarding anti-social behaviour and poor maintenance of the property are not considered to be material planning considerations. These are issues that should be dealt with by the proper management of the property by the applicant and other legislation such as police or environmental health. It is understood that the property is currently managed and let by the University of Surrey and the applicant has provided details of the University's accommodation policy and disciplinary regulations and it is understood that local residents have access to a 24 hour security service if there are issues of noise and disturbance.

The requirement for the applicant to also have an HMO licence for 10 people effectively removes any planning concerns regarding internal space as the size of internal rooms and adequate kitchen/shared facilities are considered as part of the licence assessment.

The proposal is therefore considered to be compliant with policies G5 and H7 of the saved Guildford Borough Local Plan 2003. A condition is recommended to ensure that the existing bin store and cycle store at the rear of the property is retained in situ during the lifetime of the application.
The impact on neighbouring amenity

The application does not propose any external changes. There would therefore be no material impact on neighbouring amenity in terms of overlooking, loss of light or overbearing impact.

Concern has been raised with regard to increase in noise and disturbance due to an increase in the intensity of the use of the building. The current permitted use of the site is for a C4 HMO - up to six people. Taking into consideration the existing use of the property as well as the previous lawful use of the property as a B & B and single dwelling house it is considered that the change of use to a 10 bedroom, 10 person HMO would not represent such an increase in the intensity of the building that it would cause significant harm to neighbouring occupants in terms of noise and disturbance. Again issues such as anti-social behaviour is not a material planning consideration as these can be dealt with through environmental health and police legislation.

The fact that the nearby properties of 121 and 113 Stoke Road are already operating as large HMOs is also a consideration. In reality this proposal is only increasing the number of HMO rooms in this part of the road from 26 to 30. Such an increase in intensity is not considered to be so significant as to warrant refusal of the application.

The proposal is therefore considered to be compliant with policies G1 and H7 of the saved Guildford Borough Local Plan 2003.

Highway and parking considerations

There is no specific maximum parking requirement for HMOs in the Council's parking standards. However the property would provide two off street parking spaces. Given the nature of HMO residents where by they usually work close by and pay lower rent it is unlikely that many of the occupants own vehicles. Stoke Road is within a controlled parking zone which prevents parking during the day unless the vehicle has a parking permit. As the property already has two off street parking spaces no further parking permits would be issued to the occupants of this building. Therefore any future tenants would not be able to park their car along this road.

The site is sustainably located within walking distance of local shops and services, the Town Centre and a local train station (London Road) and well served by bus routes. It is also considered that the proposed change of use would not result in a significant intensification of use when considered in the context of the existing C4 use of the application property and the large 10 room HMOs at 121 and 113 Stoke Road which permit a total of 26 HMO rooms between them. It is therefore considered that the proposal would be acceptable in parking terms.

The County Highway Authority has made no objection to the scheme and taking into account the existing HMOs at 113 and 121 Stoke Road as well as the existing HMO use of the application site it is considered that the proposal would have no material impact in terms of highway safety and capacity.

The proposal is therefore deemed to be compliant with policies G1 and H7 of the saved Guildford Borough Local Plan 2003.

Sustainability

As the proposal involves the conversion of the existing building with only very limited changes to the internal layout (just kitchen) and no external alterations, it would not be possible for the applicant to comply with the requirements of the Council's Supplementary Planning Document "Sustainable Design and Construction" (2011). As such, these normal requirements will not be sought in this instance.
Thames Basin Heath Special Protection Area

The proposed development may adversely impact the TBHSPA due to the net gain of residents. It is considered to be the net gain of five people because the Council's adopted TBHSPA Avoidance Strategy 2017 considers a C4 HMO to be the equivalent of a 5+ bedroom property and as such the difference of 5 between the 5+ criteria and resultant 10 person HMO represents the equivalent of 5 additional people. The Council’s adopted TBHSPA Avoidance Strategy 2017 requires a SANG contribution and an Access Management contribution to avoid any adverse impact (in line with the current tariff).

A planning obligation is therefore required in accordance with the terms of the Strategy. The applicant has agreed to enter into a legal agreement to secure the required contributions.

Legal agreement requirements

The three tests as set out in Regulation 122(2) require S106 agreements to be:
(a) necessary to make the development acceptable in planning terms;
(b) directly related to the development; and
(c) fairly and reasonably related in scale and kind to the development.

As the application would result in the net gain of effectively four new residential units, in order for the development to be acceptable in planning terms, a legal agreement is required as part of any subsequent planning approval to secure a financial contribution towards a SANG and SAMM, in line with the Guildford Borough Council TBHSPA Avoidance Strategy 2017. This strategy has been formally adopted by the Council. In line with this strategy and the requirements of Regulation 63 of the Habitats Regulations 2017, a S106 agreement is required to ensure that the additional residential units proposed by this development will not have any likely significant effect on the TBHSPA. The level of financial contribution sought is required to be in line with the specific tariffs set out in the adopted Avoidance Strategy which relate to the number of residential units and number of bedrooms proposed. As such, the requirement for the S106 agreement meets the three tests set out above.

While Regulation 123 of the CIL Regulations seeks to prevent the pooling of financial contribution from planning obligations this relates only to an obligation which "provides for the funding or provision of relevant infrastructure". In this instance the contributions are required to improve existing SANGs and ensure they are maintained in perpetuity; the SANGS are existing infrastructure which is to be improved to ensure that they have suitable capacity to mitigate the impact of the residential development. Accordingly the contributions are not for the provision of infrastructure and therefore Regulation 123 does not prevent collecting these contributions or having regard to the obligation in decision making. The SAMM contribution does not relate to infrastructure and this also falls outside the scope of Regulation 123.
Presumption in favour of sustainable development

Paragraph 49 of the National Planning Policy Framework (NPPF) states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

The Council is not currently able to demonstrate a 5 year supply of deliverable housing land. Therefore, in accordance with paragraph 49 of the NPPF, the starting point in the guidance is that housing applications should be considered in the context of the presumption in favour of sustainable development. Furthermore, relevant policies for the supply of housing should not be considered up to date as the Council cannot demonstrate a five-year supply of deliverable housing sites.

Paragraph 14 of the NPPF states that where the development plan is absent, silent or relevant policies are out-of-date, presumption in favour of sustainable development means granting permission unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.

The proposal is considered to comply with the Framework policies. As such it is considered that paragraph 14 of the NPPF is engaged in this case. This should be given significant weight in favour of the application.

Conclusion.

The proposal is considered to represent appropriate development in this urban area and sustainable location close to the Town Centre.

The proposed intensification of the existing C4 HMO to a large HMO of 10 bedrooms and 10 people has been considered in the context of the use of the existing building and the existence of two other large HMOs in the vicinity. It is considered that the proposal would not have a detrimental impact on the character of the site and surrounding area, neighbouring amenity or highway safety.

The proposal should also be considered with regard to the NPPF's presumption in favour of sustainable development, which gives significant weight in favour of the application.

The applicant has agreed to sign a S106 to secure the required financial contributions towards SANG and SAMM in line with the Council's adopted TBHSPA Avoidance Strategy 2017.

The proposal is therefore recommended for approval.