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# NOTICE OF MEETING

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## PLANNING COMMITTEE

WEDNESDAY, 21 JUNE 2023 AT 10.30 AM

## COUNCIL CHAMBER - THE GUILDHALL

Telephone enquiries to Democratic Services  
Email: [Democratic@portsmouthcc.gov.uk](mailto:Democratic@portsmouthcc.gov.uk)

If any member of the public wishing to attend the meeting has access requirements, please notify the contact named above.

Please note the public health requirements for attendees at the bottom of the agenda.

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### Planning Committee Members:

Councillors Chris Attwell (Chair), Lee Hunt (Vice-Chair), Hannah Brent, Peter Candlish, Raymond Dent, Asghar Shah, John Smith, Judith Smyth, Mary Vallely and Gerald Vernon-Jackson CBE

### Standing Deputies

Councillors Dave Ashmore, George Fielding, Lewis Gosling, Ian Holder, Mark Jeffery, Steve Pitt, Darren Sanders, Russell Simpson and Daniel Wemyss

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(NB This agenda should be retained for future reference with the minutes of this meeting.)

Please note that the agenda, minutes and non-exempt reports are available to view online on the Portsmouth City Council website: [www.portsmouth.gov.uk](http://www.portsmouth.gov.uk)

Representations by members of the public may be made on any item where a decision is going to be taken. The request needs to be made in writing to the relevant officer by 12 noon the day before the meeting and must include the purpose of the representation (e.g. for or against the recommendations). Email requests to [planning.reps@portsmouthcc.gov.uk](mailto:planning.reps@portsmouthcc.gov.uk) or telephone a member of the Technical Validation Team on 023 9283 4826.

## AGENDA

- 1 Apologies**
- 2 Declaration of Members' Interests**

- 3 Minutes of the previous meeting held on 31 May 2023 (Pages 5 - 10)**  
**RECOMMENDED that the minutes of the meeting held on 31 May 2023 be agreed as a correct record.**
- 4 23/00063/FUL - Land to the South of Limberline Road and North of Norway Road, Hilsea (Pages 11 - 26)**  
Demolition of existing site buildings, erection of buildings for use Classes E, B2, B8 (applied flexibly), including details of new access on Limberline Road, parking, servicing, landscaping, boundary treatment and associated works.
- 5 23/00348/FUL - Trematon, The Thicket, Southsea PO5 2AA (Pages 27 - 42)**  
Construction of 3no. Dwelling Houses (following demolition of existing flats)
- 6 23/00465/FUL - 46 Shadwell Road, Portsmouth, PO2 9EJ (Pages 43 - 54)**  
Change of use from dwellinghouse (Class C3) to purposes falling within Class C3 (dwellinghouse) or Class C4 (house in multiple occupation).
- 7 23/00499/FUL - 2 Mayfield Road, Portsmouth, PO2 0RW (Pages 55 - 64)**  
Change of use from dwellinghouse (Class C3) to 7-bed/7-person House in Multiple Occupation.
- 8 22/01667/FUL - 152-154 London Road, Hilsea, Portsmouth, PO2 9DJ (Pages 65 - 76)**  
Change of use from Class E offices to 13 bedroom house in multiple occupation (Sui Generis), with associated works to include alterations to the frontage, fenestration changes and the construction of front and rear dormers (resubmission of 22/00338/FUL).
- 9 22/00208/FUL - 172 Chichester Road, Portsmouth, PO2 0AH (Pages 77 - 86)**  
Change of use from dwelling house (Class C3) to 7 person house in multiple occupancy (Sui Generis).
- 10 22/01735/HOU - 11 St Davids Road, Southsea, PO5 1QH (Pages 87 - 94)**  
Replacement of front door; widening of dropped kerb; alterations to include partial removal of boundary wall and reposition existing pier.
- 11 23/00110/FUL - 68 Bedhampton Road, Portsmouth, PO2 7JY (Pages 95 - 104)**  
Change of use from dwellinghouse (Class C3) to purposes falling within

dwellinghouse (Class C3) or House in Multiple Occupation (Class C4).

### **Public health guidance for staff and the public due to Winter coughs, colds and viruses, including Covid-19**

- Following the government announcement 'Living with Covid-19' made on 21 February and the end of universal free testing from 1<sup>st</sup> April, attendees are no longer required to undertake any asymptomatic/ lateral flow test within 48 hours of the meeting; however, we still encourage attendees to follow the public health precautions we have followed over the last two years to protect themselves and others including vaccination and taking a lateral flow test should they wish.
- We strongly recommend that attendees should be double vaccinated and have received any boosters they are eligible for.
- If unwell we encourage you not to attend the meeting but to stay at home. Updated government guidance from 1 April advises people with a respiratory infection, a high temperature and who feel unwell, to stay at home and avoid contact with other people, until they feel well enough to resume normal activities and they no longer have a high temperature. From 1 April, anyone with a positive Covid-19 test result is still being advised to follow this guidance for five days, which is the period when you are most infectious.
- We encourage all attendees to wear a face covering while moving around crowded areas of the Guildhall.
- Although not a legal requirement, attendees are strongly encouraged to keep a social distance and take opportunities to prevent the spread of infection by following the 'hands, face, space' and 'catch it, kill it, bin it' advice that protects us from coughs, colds and winter viruses, including Covid-19.
- Hand sanitiser is provided at the entrance and throughout the Guildhall. All attendees are encouraged to make use of hand sanitiser on entry to the Guildhall.
- Those not participating in the meeting and wish to view proceedings are encouraged to do so remotely via the livestream link.

Members of the public are permitted to use both audio visual recording devices and social media during this meeting, on the understanding that it neither disrupts the meeting nor records those stating explicitly that they do not wish to be recorded. Guidance on the use of devices at meetings open to the public is available on the Council's website and posters on the wall of the meeting's venue. Whilst every effort is made to webcast this meeting, should technical or other difficulties occur, the meeting will continue without being webcast via the Council's website.

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# Agenda Item 3

## PLANNING COMMITTEE

MINUTES OF THE MEETING of the Planning Committee held on Wednesday, 31 May 2023 at 10.30am in the Council Chamber, the Guildhall, Portsmouth

These minutes should be read in conjunction with the agenda and associated papers for the meeting.

### Present

Councillors Chris Attwell (Chair)  
Peter Candlish  
Raymond Dent  
Asghar Shah  
John Smith  
Judith Smyth  
Mary Vallely  
Gerald Vernon-Jackson CBE

### Welcome

The chair welcomed members of the public and members to the meeting.

### Guildhall, Fire Procedure

The Chair explained to all present at the meeting the fire procedures including where to assemble and how to evacuate the building in case of a fire.

### 60. Apologies (AI 1)

Apologies were received from Councillors Hannah Brent and Lee Hunt.

### 61. Declaration of Members' Interests (AI 2)

Agenda item 9: Councillor Gerald Vernon-Jackson stated that he is a Director of the applicant. He will leave the meeting when this item is discussed.

Agenda item 6: Councillor Raymond Dent declared a personal and prejudicial interest and would leave the meeting when this item is discussed.

Agenda item 9: Councillor Judith Smyth declared a non-personal, non-prejudicial interest as she is a member of the Port Advisory Board.

### 62. Minutes of the previous meeting held on 12 April 2023 (AI 3)

**RESOLVED** that the minutes of the Planning Committee meeting held on 12 April 2023 be agreed as correct records.

### Planning Applications.

The Supplementary Matters report and the deputations (which are not minuted) can be viewed on the council's website at: [Planning Committee, 31 May 2023 on Livestream.](#)

The Chair advised that he would be amending the order of the agenda slightly. The applications were considered in the following order:

- Item 4: Tipner East, Land off Twyford Avenue and Tipner Lane, Portsmouth.
- Item 7 Request by coastal partners to have their discharge of condition applications on Southsea frontage determined by planning officers.
- Item 5: Former Royal British Legion, Sixth Avenue, Portsmouth PO6 3PD.
- Item 6: 360 Copnor Road, Portsmouth PO3 5EN.
- Item 8: West Battery Field, Clarence Esplanade, Southsea PO5 3PA.
- Item 9: Car park, Prospect Road, Portsmouth PO1 4QY
- Item 10: The Spinnaker Tower, Gunwharf Quays, Portsmouth PO1 3TT.
- Item 11: 2-6 Spencer Road, Southsea PO4 9RN.

However, for ease of reference the minutes will be kept in the original order.

**63. 21/01357/FUL - Tipner East, Land off Twyford Avenue and Tipner Lane, Portsmouth (AI 4)**

The Development Management Team Leader presented the report and drew members' attention to the information in the Supplementary Matters report.

Deputations.

Jeffery Hector, resident on behalf of residents who had submitted a petition.  
Mark Chevis, Land Director, West Division of Bellway Homes.

Members' Questions.

In response to members' questions, officers clarified that:

- Tipner Lane serves 45 units in the scheme. Target Road is pedestrianised. The Highways Authority reported a number of improvements to these roads.
- Parking provision would be at or below the council's standard for spaces per unit. There is no on-street parking in this road. Officers were told that this was built to adoptable standards to allow for the provision of a bus route.
- A circular route would be in place with Tipner and Twyford Avenue.
- Apart from signage, there would be no enforcement of the pedestrianised road.
- A contribution to the bus route could be negotiated with developers.
- The Environment Agency carried out an assessment of the scheme on its own merits, recommended appropriate conditions and raised no objections.
- It was asked whether a condition could be imposed to prevent occupation of this development until the completion of flood defences on the larger, Vivid site to the north under a separate planning permission. The Committee was advised that the Environment Agency had not recommended this as a condition when assessing this site on its own merits, meaning that it was unlikely to be a "necessary" condition to require and therefore it would be unlawful to impose it.
- The height of the floors is deemed to be sufficient and takes into account sea level rise due to climate change.
- A condition could be added to install a gate or rising bollards for buses.
- Run-off water from the scheme would be directed into Tipner Lake with adequate tide blocking system so that there is no two-way flow.

In response to a question from the committee, Mr Chevis explained that the road was widened after consultation with the council to enable it to be used as a bus route. A temporary bollard would be installed. A bus gate midway may be the best solution to prevent cars from using the road.

#### Members' Comments

Members raised significant concerns regarding:

- Flood risk and the height of the floors of the properties particularly considering high tides and Spring tides.
- Not knowing when the seawall will be built poses a significant risk. They considered that perhaps a condition could be put in to ensure residents do not move into the properties before the seawall defences are built.

Members felt that they could not determine this application without the following information:

- The flood risk mitigation particularly if the sea wall is not built.
- Predicted traffic volumes.
- Clearer, colour maps showing the locations of high buildings, two-bedroom properties, flats, green areas and hard landscapes.
- An option clarifying the developer's original proposals regarding traffic.

It was agreed that the application would come back to the committee on 12 July.

**RESOLVED that the application be deferred to the meeting on 12 July with the additional information requested by members.**

#### **64. 22/00226/FUL - Former Royal British Legion, Sixth Avenue, Portsmouth PO6 3PD. (AI 5)**

The Acting Head of Development Management presented the report and referred members to the Supplementary Matters report.

#### Deputations.

Darryl Howells, agent.

#### Members' Questions.

In response to questions, officers explained that:

The profit is predicted at the application stage on the understanding that there are a number of factors that could be very different when the properties are sold months or years later. This means that the prediction may very well be inaccurate. It is possible for officers to engage with developers towards the end of the development to determine the profit achieved when there is a review mechanism. These are more important for larger developments.

#### Members' Comments.

Members expressed interest in a body of evidence being built up to see how accurate the viability predictions tend to be.

**RESOLVED that delegated authority be granted to the Assistant Director of Planning & Economic Growth to grant permission subject to the conditions set out in the original officer report of 22<sup>nd</sup> March 2022.**

- 65. 23/00079/FUL - 360 Copnor Road, Portsmouth PO3 5EN (AI 6)**  
Councillor Raymond Dent was absent for this item.

The Acting Head of Development Management presented the report and referred members to the Supplementary Matters report.

Deputations.

John Morris, objecting.  
Lee Roberts, objecting.  
Mr G Edwards, objecting.  
Adam Yates, applicant.

Members' Questions.

In response to questions, officers explained that:

- Land ownership and double yellow lines are not matters of planning consideration.
- The building was not proposed for independent occupation forming a separate planning unit.
- It would offer in conjunction with the host property a satisfactory level of amenity for the occupier.

Members' Comments.

Members were concerned about amenity for the occupier of the proposed granny annex.

**RESOLVED that the application be refused.**

- 66. Request by coastal partners to have their discharge of condition applications on Southsea frontage determined by planning offices. (AI 7)**  
The Development Management Team Leader presented the report.

Members' Questions.

In response to questions, officers explained that:

- The usual publicity regarding the designs will be carried out.
- If the committee decides that applications submitted to discharge conditions 17, 23, 25, 27 and 38 can be delegated to officers, members' rights to call in any decisions would remain.
- There would be no public forum where the public could ask questions about the development.

Members' Comments.

- Public interest in the design details is very high.
- When this scheme was first discussed, the design was to be varied in different sections. However, it looks like it would now be a uniform design throughout.
- Public consultation is an important feature in our city.



- The seafront is the most important asset in the city, so it is essential that this is done right. The detail is as important as the underlying engineering.
- Members have made significant improvements to the scheme and if the next stages of the scheme do not continue to come to the Planning Committee, this area of challenge from Councillors and members of the public would be missed.

**RESOLVED that the request be refused due to the committees' continued interest in discharging conditions under its planning permission and in view of the high public interest in this most important development.**

**67. 23/00325/CPL - West Battery Field, Clarence Esplanade, Southsea PO5 3PA (AI 8)**

The Acting Head of Development Management presented the report.

Members' Questions.

There were no questions.

Members' Comments.

There were no comments.

**RESOLVED to issue a Certificate of Proposed Lawful Development.**

**68. 23/00066/FUL - Car park, Prospect Road, Portsmouth PO1 4QY (AI 9)**

Councillor Gerald Vernon-Jackson was absent for this item.

The Acting Head of Development Management presented the report.

Members' Questions.

In response to a question, officers explained that it would be a properly regulated industrial site with a range of materials and vehicles stored there.

Members' Comments.

There were no comments.

**RESOLVED that conditional planning permission be granted.**

**69. 23/00558/ADV - The Spinnaker Tower, Gunwharf Quays, Portsmouth PO1 3TT (AI 10)**

The Acting Head of Development Management presented the report.

Members' Questions.

There were no questions.

Members' Comments.

It was noted that this is for a very good cause.

**RESOLVED that conditional consent be granted.**

**70. 22/00205/FUL - 2-6 Spencer Road, Southsea PO4 9RN (AI 11)**

The Acting Head of Development Management presented the report and referred members to the Supplementary Matters report.

Members' Questions.

In response to questions, officers explained that:

- The proposed conditions could be strengthened to require an increase in the amount of permeable surface and that drainage of rainwater into the soft landscape be encouraged.
- Officers had visited the site on two evenings during termtime when the care home had already shut. On both occasions there was plenty of on-street parking available.

Members' Comments.

- The Local Plan should ensure that rainwater soaks away on developments.
- Providing only one parking space per property could exacerbate the area's parking problems.

**RESOLVED to grant delegated authority to Assistant Director of Planning & Economic Growth to grant permission subject to the conditions and legal agreement set out in the report with amendments regarding permeability of the driveways and rain drainage into the soft landscape.**

The meeting concluded at 1:15pm

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Signed by the Chair of the meeting  
Councillor Chris Attwell

# Agenda Item 4

23/00063/FUL

WARD: HILSEA

LAND TO THE SOUTH OF LIMBERLINE ROAD AND NORTH OF NORWAY ROAD, HILSEA.

DEMOLITION OF EXISTING SITE BUILDINGS, ERECTION OF BUILDINGS FOR USE CLASSES E, B2, B8 (APPLIED FLEXIBLY), INCLUDING DETAILS OF NEW ACCESS ON LIMBERLINE ROAD, PARKING, SERVICING, LANDSCAPING, BOUNDARY TREATMENT AND ASSOCIATED WORKS.

**LINK TO ONLINE DOCUMENTS:**

[23/00063/FUL | Erection of buildings for E, B2, B8 \(applied flexibly\), including details of access, parking, servicing, landscaping, boundary treatment and associated works. | Land To The South Of Limberline Road And North Of Norway Road Hilsea \(portsmouth.gov.uk\)](#)

**Application Submitted By:**

Lyndon Gill  
Barton Wilmore now Stantec

**On behalf of:**

Wrenbridge (FREOF V Portsmouth LLP)

**RDD:** 17<sup>th</sup> January 2023.

**LDD:** 18<sup>th</sup> April 2023.

## SUMMARY OF MAIN ISSUES

- 1.1 This application is being presented to Planning Committee due to the number of objections received (from six addresses/businesses).
- 1.2 The main considerations are:
  - The principle of the development;
  - Design Considerations;
  - Impact on amenity for Existing Residents;
  - Highways & Parking;
  - Appropriate Assessment & Biodiversity
  - Trees
  - Flooding
  - Ground Conditions & Pollution (Contaminated Land)

## SITE AND SURROUNDINGS

- 2.1 The Site is located to the north of Norway Road and to the south of Limberline Road and is close to the east to the railway with Hilsea train station located to the south east of the site.
- 2.2 The site is roughly rectangular in shape and measures approximately 1.82ha. The site has two vehicular access points and an open forecourt along its northern edge on Limberline Road, and a vehicular access point at its south-west corner with Norway Road. The site comprised of existing commercial buildings with neighbouring commercial buildings to the north, west and south, the railway line to the east and commercial buildings beyond. An electrical Infrastructure site lies to the north-east boundary of the application site. To the south west of the site on the other side of

Norway Road is a post-war residential estate, with the nearest roads being Kestrel Road and Sparrowhawk Close.

- 2.3 The surrounding area is commercial in nature and comprises a range of industrial and commercial buildings that form part of the wider Hilsea employment site. The site buildings are now substantially demolished, with works still in-progress.

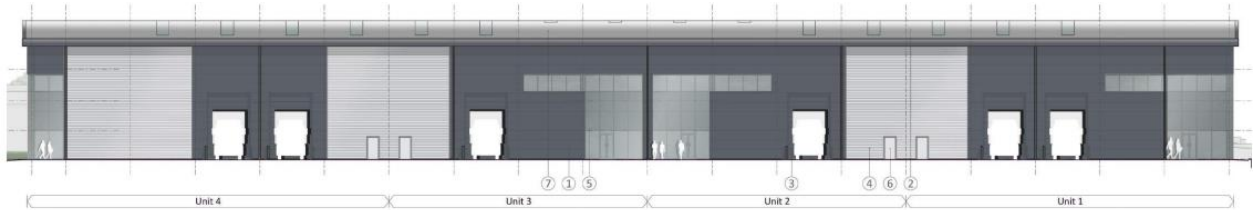
## PROPOSAL

- 3.1 The development proposes the demolition of the site existing buildings, and the erection of seven industrial-commercial units of various floorspaces, totalling 9,848 sqm (Gross Internal). The two accesses on Limberline Road would be closed, and a new access point formed, running north-south through the centre of the site, with the new buildings and lorry and car parks positioned on both sides. The north-south spine road would terminate at its southern end with a turning head to the west, and access to the rear of the largest unit, Unit 7, on the east side of the site. The access point on Norway Road would be retained, serving a relatively small parking area only. Demolition of the buildings has already commenced pursuant to Prior Approval 22/01690/DEM. The seven units would be predominantly single storey warehouse structures with ancillary first floor office space. Pockets of landscaping would be distributed around the site.

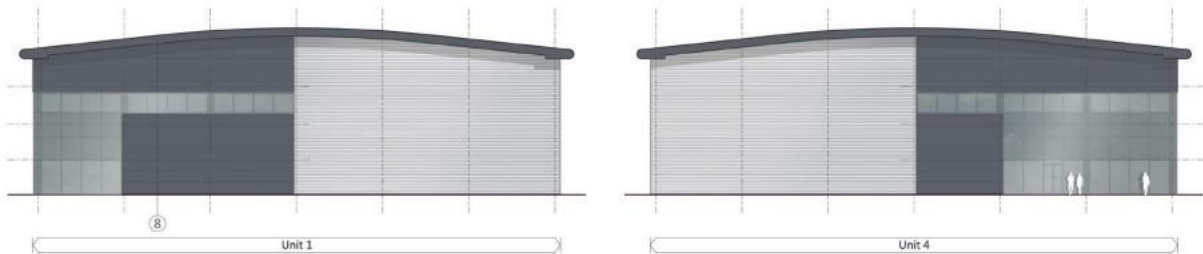


**Image 1: Proposed Site Plan**

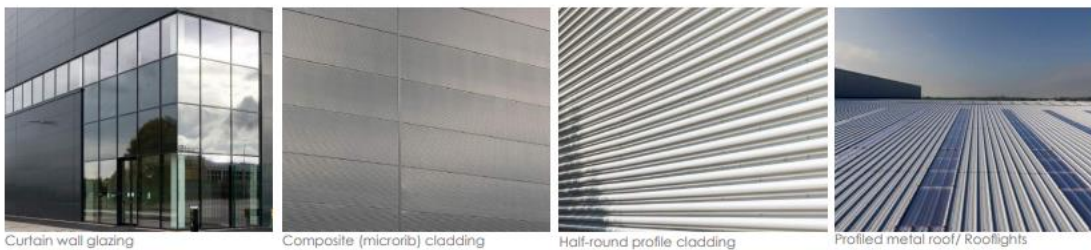
- 3.4 The seven units would range in size from approximately 10m to 16m in height and 457 sq.m to 3,148 sq.m.
- 3.5 The buildings would be of a modern commercial appearance and constructed using composite insulated panelling, metal sheet roofing materials and insulated sliding loading doors. The applicant also proposes solar PV roofing panels. The site is proposed for 24 hour operation.



**Image 2: Proposed Front elevation to Units 1 - 4.**



**Image 3: Proposed Side elevation to Units 1 and 4.**



**Image 4: Example Materials**

**PLANNING CONSTRAINTS**

4.1 The site is subject to the following key constraints

- Designated Employment Area in the Local Plan
- Flood Zones 2 & 3 (Medium & High Risk)

**POLICY CONTEXT**

5.1 The planning policy framework for Portsmouth is currently provided by:

The Portsmouth Plan (The Portsmouth Core Strategy) adopted in January 2012.

5.3 Having regard to the location of this site and the nature of the proposal, the relevant policies within the Portsmouth Plan would include:

- PCS11 - Employment Land
- PCS12 - Flood Risk
- PCS13 - A Greener Portsmouth
- PCS15 - Sustainable Design and Construction
- PCS17 - Transport
- PCS23 - Design and Conservation

5.4 This framework is supplemented the following saved policies from the Portsmouth City Local Plan (2006):

- Policy DC21 - Contaminated Land

## RELEVANT PLANNING HISTORY

- 7.1 The site has a limited planning history, dating back to the 1970's which relates to former use of the site as a social club. Aside from the demolition consent 22/01690/DEM, there is no history of apparent relevance to the current proposal.

## CONSULTATIONS

Highways Development Control	Require Traffic Road Order (double yellow lines) at/opposite site access in order to ensure no blockage of the highway with particular reference for large HGVS to turn into and out of the site . Considering the proposed parking level on-site for staff, not convinced by the TRICS evidence provided to justify the proposed level of parking, and so some concern that over-spill parking could occur to surrounding industrial estate roads. However, given the straightness of these roads, this does not amount to an objection of Highway Safety grounds but in terms of amenity for other users of the industrial estate, this is to be considered as a planning matter. Conditions: * Prior to occupation the access to be constructed as outlined within the TS statement with the inclusion of the amended Traffic Road Order: * Construction Environmental Management Plan; * provision of parking spaces: * Electric Charging Point; * Cycle storage; * Travel Plan.
Regulatory Services	NO OBJECTION subject to a condition regarding noise control
Contaminated Land Team	NO OBJECTION subject to conditions.
Ecology Adviser	NO OBJECTION is raised to the scheme subject to conditions to secure biodiversity enhancements and an informative regarding bats.
Drainage Team	NO OBJECTION subject to suitably worded condition(s) including SuDS infiltration type, separate water catchment from the highway network and maintenance schedule.
Environment Agency	NO OBJECTION subject to conditions re contamination and piling.
Natural England	NO OBJECTION
Network Rail	NO OBJECTION

## REPRESENTATIONS

- 9.1 Objections have been received from 6 addresses in the vicinity of the site. These are concerned with:
- The scheme will only serve to make already congested roads worse, existing roads within the estate are often blocked;
  - Additional traffic will impact upon road safety, particularly around the Gunstore Road/Norway Road roundabout;
  - There are already too many HGV's, the scheme will only make this worse.
  - Outdated approach for one of the largest industrial estates in the city to be served by a single access road in and out.

## PLANNING CONSIDERATIONS / COMMENT

### Principle of the development

- 10.1 The application site is located within the Hilsea Employment Area where Policy PCS11 is of relevance. Policy PCS11 of the 2012 Portsmouth Plan states sustainable economic development will be promoted by the provision of a flexible supply of good quality office,

manufacturing and warehouse land and floorspace. Policy PCS11 further states that in existing employment areas the City Council will promote office, manufacturing and warehouse development.

- 10.2 The Policy states that the existing areas have the potential to provide approximately 62,000 sq.m of additional such floorspace.
- 10.3 Policy PCS11 is in accordance with the objectives of paragraph 81 of the NPPF which highlights that significant weight should be placed on the need to support economic growth and productivity, taking account of both local business needs and wider opportunities for development.
- 10.4 The development proposes a total of 9,848 sq.m of industrial and commercial units within Use Classes E(g)(i) (Offices to carry out any operational or administrative functions; E(g)(ii) Research and development of products or processes; E(g)(iii) Industrial processes; B2 General Industrial and B8 storage and distribution.
- 10.5 The provision of modern, purpose built and energy efficient industrial and commercial units within a designated employment area would be entirely in accordance with the objectives of Policy PCS11 of the 2012 Portsmouth Plan and therefore acceptable in principle.
- 10.6 The subtext to Policy PCS11 states, at paragraph 4.19 of the 2012 Portsmouth Plan that the City council will seek to deliver a varied supply of employment floorspace. The development would delivery both a variety in the uses permitted as well as a variety in the unit sizes thereby catering to a varied range of businesses.
- 10.7 In addition to the scheme being acceptable in principle the development provides for varied unit sizes which are set out as follows:

Unit No.	Size (sq.m)
1	1,496
2	1,163
3	1,187
4	1,632
5	457
6	756
7	3,148

- 10.8 Providing for a range of unit sizes, together with the range of uses permitted, would ensure the development caters for a range of business types thereby according with the overarching objectives of Policy PCS11 and the associated sub-text within the 2012 Portsmouth Plan.

**Design Considerations**

- 10.9 The National Planning Policy Framework (NPPF), Chapter 12, 'Achieving Well Designed Places', states that 'the creation of high quality beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve'. The NPPF is also supplemented by the National Design Guide (NDG).
- 10.10 Policy PCS23 (Design & Conservation) echoes the principles of good design set out within the NPPF requiring all new development to be well designed, seeking excellent architectural quality; public and private spaces that are clearly defined, as well as being safe, vibrant and attractive; relate to the geography and history of Portsmouth; is of an appropriate scale, density, layout, appearance and materials in relation to the particular context; create new views and juxtapositions that adds to the variety and texture of setting; and protection of amenity and provision of good standard of living environment

for neighbouring and local occupiers as well as future residents/users of the development.

- 10.11 The surrounding area is predominantly commercial and industrial in character and consists of single and two storey commercial and industrial buildings that are constructed of red brick and cladding of varying colours and appearance. In addition to the materials the roof forms vary which together with the red brick residential properties to the south west has resulted in a varied character and appearance.
- 10.12 The proposed buildings comprise two terraces extending north-east/south-west and would have gable end elevations with a gently curving roof constructed using curtain wall insulated cladding with a simple colour palette consisting of light and dark greys with large glazed areas around entrance foyers and the ancillary offices. The units would vary from 10m in height to 16m.
- 10.13 The surrounding built form, in addition to the overall design and appearance, varies considerably in height and scale. Units 1 - 4 would be within the western terrace that would be of a uniform height of approximately 13 m. The eastern terrace of Units 5 - 7 would be a split level terrace of 10m in height for Units 5 and 6 and 16m in height for Unit 7.
- 10.14 Units 1 - 4 would appear to be taller than the neighbouring building by approximately 2-3 metres. It is considered however that due to the variety in the size and scale of the surrounding industrial and commercial buildings that the change in scale would not be harmful.
- 10.15 Views from within the site from Limberline Road would also show a change in levels from the surrounding buildings to the north of the site. However, the wider estate is characterised by variety in the size and scale of buildings and as such any differences between the buildings proposed and those in the immediate vicinity would not constitute a harmful change.
- 10.16 Furthermore, the buildings' gable end with gently curved roof would reflect the surrounding style of many of the surrounding commercial buildings further ensuring the development is of an appropriate design when assessed against the appearance of surrounding buildings.
- 10.17 In summary, the scheme proposes two terraces comprising 7 industrial and commercial units that would have a gable end design with a gently curved roof that would be similar to those in the surrounding vicinity and while those proposed would be taller than the existing buildings surrounding the site such changes in scale are characteristic of the wide Hilsea industrial estate. The materials palette would also be reflective of the curtain walled clad buildings within the immediate vicinity. It is considered therefore that the proposal would constitute good design in accordance with the objectives of Policy PCS23 of the 2012 Portsmouth Plan.

#### **Impact on amenities of residential properties**

- 10.18 In addition to requiring good design, Policy PCS23 of the 2012 Portsmouth Plan also requires new development to protect the amenities of and to ensure a good standard of amenity for neighbouring and local residents.
- 10.19 The application site is surrounded to the north, south and west by other industrial and commercial buildings with the Hilsea railway station and trainline to the east with other industrial and commercial uses beyond.
- 10.20 The nearest residential properties are those that front Sparrowhawk Close to the south west of the site, the nearest of which is No. 1 Sparrowhawk Close. The south west



corner of Unit 4 would be approximately 40m from the back garden of No. 1 Sparrowhawk Close. Such separation distances would ensure there is no harmful impact in terms of loss of sunlight or daylight.

- 10.28 The proposed industrial and commercial use does however have the potential to give rise to a degree of noise that could impact upon the amenities of residential properties off Sparrowhawk Close. The Regulatory Services Officer has reviewed the plans and particulars submitted with the application including the Noise Impact Assessment.
- 10.29 The Noise Impact Assessment details the extent of the noise survey undertaken and the results of that survey which was undertaken during both the day and night time. The survey results confirm that due to the predominantly surrounding industrial and commercial nature of the area and road noise, resulting noise impacts would be low. The report does suggest the installation of two 2.5m high noise barriers.
- 10.30 The Regulatory Services Officer has confirmed that upon review of the noise assessment no objection is raised to the proposal subject to a condition regarding noise levels.
- 10.31 In addition to this it is considered necessary to impose a further condition ensuring details of the noise barriers referred to in the noise impact assessment are submitted and installed as approved.
- 10.32 It is considered that subject to these conditions that there would be no harmful impact on the occupants of properties off Sparrowhawk Close thereby ensuring compliance with Policy PCS23 of the 2012 Portsmouth Plan.

### **Highways and Parking**

- 10.34 The development proposes the main vehicular access off Limberline Road with a further access for car parking to the south off Norway Road. There would be parking areas outside each of the 7 units proposed.
- 10.35 The development would propose a total of 102 car parking spaces with each of the units also having their own bicycle parking area. Of the parking spaces, 8 would be accessible, with 20% active EV charging spaces and 80% passive EV spaces.
- 10.36 Other companies within the industrial area have objected to the application, and there have been various discussions with the Applicant and the Local Highways Authority. These have resulted in the Applicant carrying out various further work on parking and access matters. The LHA's concluding comments are summarised earlier in this report. Subject to a range of conditions addressing different matters, especially achieving suitable access in-out of the site, there is no objection from the LHA. The exact mechanism (eg condition and/or legal agreement) to secure the delivery of the access arrangements remains under discussion with the Applicant and LHA and will be reported to the Committee on the day of the meeting.
- 10.37 The above resolution is noted and supported. It is further noted that the site is located in a reasonably sustainable location with good access to bus stops and especially the Hilsea railway station. Such public transport links together with the bicycle parking proposed and a Travel Plan should ensure that any highway impacts would not amount to a severe impact on the safety of the surrounding highway network.

### **Ecology and Biodiversity**

- 10.41 Pursuant to the [Conservation of Habitats and Species Regulations 2017 \(as amended\)](#) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended), all plans and projects (including planning applications) which are not

directly connected with, or necessary for, the conservation management of a habitat site, require consideration of whether the plan or project is likely to have significant effects on that site.

- 10.42 Where the potential for likely significant effects cannot be excluded, a [competent authority](#) must make an appropriate assessment of the implications of the plan or project for that site, in view of the site's conservation objectives. The competent authority may agree to the plan or project only after having ruled out adverse effects on the integrity of the habitat site. Where an adverse effect on the site's integrity cannot be ruled out, and where there are no alternative solutions, the plan or project can only proceed if there are imperative reasons of overriding public interest and if the necessary compensatory measures can be secured.
- 10.43 As the development would not result in any additional residential units or overnight stays there is therefore no requirement for any nutrient neutrality mitigation. Further, Natural England have raised no objection to the proposal.

#### *Biodiversity*

- 10.44 The overarching objective of Policy PCS13 of the 2012 Portsmouth Plan and Section 15 of the NPPF is to ensure planning preserves and enhances a site's biodiversity.
- 10.45 Regarding ecology, the County Council's Ecologist has reviewed the ecological documents submitted with the application which include a Preliminary Ecological Appraisal and Preliminary Roost Assessment report, Nocturnal Bat Roost Assessment report, Biodiversity Net Gain report and HRA Screening report.
- 10.46 The buildings were considered to have the potential for roosting bats however the subsequent bat survey confirmed there were no bats in any of the buildings. Notwithstanding this, an informative is requested regarding bats and the legal protection.
- 10.47 Furthermore, the ecology officer has requested a condition ensuring the biodiversity enhancement measures set out in the report are undertaken in accordance with the report.

#### *Trees and Landscaping*

- 10.48 There are no trees or any vegetation on the site. The applicant has submitted a biodiversity enhancement planting plan which the ecology officer has requested is conditioned.
- 10.49 It is considered that subject to the two conditions and informative that the development would not have any harmful impact on protected species and would bring about a biodiversity enhancement thereby complying with the objectives of Policy PCS13 of the 2012 Portsmouth Plan and Section 15 of the NPPF.

#### **Flooding and Surface Water Drainage**

- 10.50 When determining planning applications, LPAs should ensure that flood risk is not increased elsewhere. The site is located in Flood Zone 2 and 3, areas of greatest risk of flooding. The applicant has submitted a Flood Risk Assessment which refers to flood risk as well as surface water drainage and the sequential test. The environment Agency has required the application and have raised no objection subject to conditions regarding contamination. No issues have been raised regarding flood risk.
- 10.51 Regarding the Sequential Test; as commercial uses are classified as 'less vulnerable' and with the wider estate being designated employment land in both the existing Local Plan and emerging Local Plan the Sequential Test is satisfied.

- 10.52 Regarding the drainage scheme itself, the proposal has been reviewed by the Drainage Officer who has confirmed that the drainage proposal has been well thought out. There are a small number of details that need to be clarified in due course. The details include infiltration and SuDS, the separation of water catchments around the access and the maintenance and operation of the drainage works and oil receptors.
- 10.53 Such details can be secured by way of a condition(s). As such, subject to this condition the scheme is considered appropriate in flood risk terms.

### **Ground Conditions and Pollution (Contaminated Land)**

- 10.52 The Contaminated land team have submitted detailed comments regarding the sites history and that of the wider estate that refer to a number of matters including the need for more targeted sampling and an updated reports and have requested a multi-part condition.
- 10.53 In addition the Environment Agency have requested a total of four conditions that all relate to contamination.
- 10.54 Both sets of conditions requested require a further desk study to be undertaken that need to include a conceptual model which includes a source-pathway-receptor assessment; a site investigation reports and a remediation method statement. These would be pre-commencement and a further pre-occupation element requiring a stand along verification report to be undertaken. The Environment Agency have requested a further condition that relates to piling. As the Environment Agency's suggested conditions refer to the Local Planning Authority it is considered appropriate to use the multi-part condition requested by the Contaminated Land Team with an additional condition relating to piling from the Environment Agency.
- 10.53 Subject to these conditions it is considered that the scheme is acceptable with regard to ground conditions

### **CIL**

- 10.54 Portsmouth City Council introduced its Community Infrastructure Levy (CIL) charging schedule in April 2012. The CIL regulations require indexation to be applied to this rate annually using the RICS CIL Index and the 2023 basic rate is £167.15 per sqm. Most new development which creates over 99sqm of gross internal area or creates a new dwelling is potentially liable for the levy.
- 10.55 The CIL Form 1 submitted with the application that the CIL charge on the 9,848 sq.m proposed would be £1,646,117.49. If however the use(s) of the units proposed are restricted by condition to Use Classes E(g), B2 and B8 then the charge would be zero.

### **Human Rights and the Public Sector Equality Duty (PSED)**

- 10.56 The Council is required by the Human Rights Act 1998 to act in a way that is compatible with the European Convention on Human Rights. Virtually all planning applications engage the right to the enjoyment of property and the right to a fair hearing. Indeed, many applications engage the right to respect for private and family life where residential property is affected. Other convention rights may also be engaged. It is important to note that many convention rights are qualified rights, meaning that they are not absolute rights and must be balanced against competing interests as permitted by law. This report seeks such a balance.
- 10.57 Under section 149 of the Equality Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of

their protected characteristics. Further the Council must advance equality of opportunity and foster good relation between those who share a relevant protected characteristic and those who do not. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Having had due regard to the public sector equality duty as it applies to those with protected characteristics in the context of this application, it is not considered that the officer's recommendation would breach the Council's obligations under the Equality Act 2010.

### **Other Issues**

- 10.58 To the east of the site is the railway line and an electricity substation. Network Rail have confirmed they have no objection to the proposal. In addition the applicant themselves would have a duty of care in undertaking any construction works associated with the permission, but attaching an Informative is nevertheless a responsible reminder.

### **CONCLUSION AND PLANNING BALANCE**

- 11.1 There is no objection to the proposed industrial and commercial buildings both in terms of the principle due to the site's designation as an Employment Area nor the design, scale and layout of the buildings/site.
- 11.2 The development, subject to two conditions regarding noise, should not have a material impact on neighbouring residents' amenities. Transportation matters have been addressed with the assistance of the Local Highways Authority.
- 11.3 As such, the proposals constitute Sustainable Development, they accord with the Local Plan and the NPPF, and planning permission should be granted subject to various conditions and a legal agreement to secure the Travel Plan Monitoring fee and an employment and skills plan.

**RECOMMENDATION I** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to:

- (a) satisfactory completion of a Legal Agreement to secure a Travel Plan Monitoring sum, and an Employment and Skills Plan.

**RECOMMENDATION II** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary.

**RECOMMENDATION III** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to refuse planning permission if a Legal Agreement has not been satisfactorily completed within six months of the date of this resolution.

### **Conditions**

#### **Implementation**

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.  
Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

#### **Approved Plans**

- 2) Unless otherwise agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - To be provided in the Supplementary Matters Report.

Reason: To ensure the development is implemented in accordance with the permission granted.

### **External Materials**

3) 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those specified on the application form, the Design & Access Statement (CMP Architects, January 2023) and Plan No's P03-CMP-U5-ZZ-DR-A-00200 Rev. PL1 & P031-CMP-U1-ZZ-DR-A-00200- Rev. PL1.

Reason: In the interests of visual amenity in accordance with policy PCS23 of the Portsmouth Plan.

### **Contamination**

#### Prior to Commencement

- 4) No works (except for demolition) pursuant to the development hereby approved shall commence until there has been submitted to and approved in writing by the Local Planning Authority (or within such extended period as may be agreed with the Local Planning Authority) the following in sequential order:
- a) A desk study (undertaken following best practice including BS10175:2011+A2:2017 'Investigation of Potentially Contaminated Sites Code of Practice) documenting all the previous and current land uses of the site and potential contaminants associated with those uses. The report shall contain a conceptual model (diagram, plan, and network diagram) showing the potential contaminant linkages (including consideration of asbestos), including sampling rationale for a site investigation scheme based on the conceptual model, explaining all proposed sample locations and depths (Phase 1 report).
  - b) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the conceptual model in the desk study (to be undertaken in accordance with BS10175:2011+A2:2017 and BS8576:2013 'Guidance on investigations for ground gas – Permanent gases and volatile organic compounds (VOCs)'). The report shall refine the conceptual model of the site and confirm either that the site is currently suitable for the proposed end use or can be made so by remediation. Remedial options shall be detailed with a remedial options appraisal. The report shall include a detailed assessment of the risk to all receptors that may be affected, including those off-site (Phase 2 report).
  - c) A remediation method statement report detailing the remedial scheme and measures to be undertaken to avoid risk from contaminants and/or gases when the development hereby authorised is completed, detailing proposals for future maintenance, monitoring and arrangements for contingency action as necessary. If identified risks relate to bulk gases, this will require the submission of the design report, installation brief, and validation plan as detailed in BS8485:2015+A1:2019 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings and have consideration of CIRIA 735 Good practice on the testing and verification of protection systems for buildings against hazardous ground gases. The remedial options appraisal shall have due consideration of sustainability as detailed in ISO 18504:2017 Soil quality – Sustainable remediation. It shall include the nomination of a competent person to oversee the implementation of the remedial scheme and detail how the remedial measures will be verified on completion (Phase 3 report).

Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance

with saved Policy DC21 of the Portsmouth City Local Plan (2006), and paragraph 183 of the National Planning Policy Framework (2021). The responsibility for safe development rests with landowner / developer.

Any changes to these components require the written consent of the Local Planning Authority.

The scheme shall be implemented as approved.

#### Prior to Occupation

- 5) The development shall not be occupied until a stand-alone verification report has been submitted by the competent person approved pursuant to condition 4 c) above. The report shall demonstrate that the remedial scheme has been implemented fully in accordance with the remediation method statement and demonstrate that site remediation criteria have been met. For the verification of gas protection schemes the applicant should follow the agreed validation plan. Thereafter the remedial scheme shall be maintained in accordance with the details approved under conditions 4 c).

Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with saved Policy DC21 of the Portsmouth City Local Plan (2006), and paragraph 183 of the National Planning Policy Framework (2021). The responsibility for safe development rests with landowner / developer.

#### **Noise/Amenity**

- 6) The rating level of the noise emitted by all fixed plant and/or equipment on the site shall not exceed 46dB at the boundary of any noise sensitive premises between 07:00 and 23:00hrs and 40dB between 23:00 and 07:00hrs. The measurement and assessment shall be made according to BS4142:2014+A1.  
Reason: In the interests of amenity pursuant to Policy PCS23 of the 2012 Portsmouth Plan.
- 7) Prior to the occupation of the buildings hereby approved details of the acoustic fencing shall be submitted to an approved in writing by the Local planning Authority. The fencing shall then be installed as approved and retained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.  
Reason: In the interests of amenity pursuant to Policy PCS23 of the 2012 Portsmouth Plan.

#### **Lighting/Amenity**

- 8) The external lighting within the site shall be installed in accordance with the External Lighting Assessment Report and Plan No. 22-087-PL-EX-001 Rev. PL2 (MBA Consulting Engineers, January 2023) unless otherwise agreed in writing by the Local Planning Authority.  
Reason: In the interests of residential amenity pursuant to Policy PCS23 of the 2012 Portsmouth Plan.

#### **Ecology/Biodiversity**

- 9) Biodiversity protection and enhancement measures for bats, birds and planting shall be carried out in line with Section 5: Ecological Constraints, Opportunities and Recommendations of the Preliminary Ecological Appraisal and Preliminary Roost Assessment report (MKA Ecology, November 2022), with photographs and a report of

the implemented measures submitted by an ecologist for approval to the Local Planning Authority prior to occupation.

Reason: To ensure that the scheme complies with Policy PCS13 of the Portsmouth Plan and the NPPF.

- 10) Development shall proceed in accordance with the planting measures proposed in Appendix 3 of the Biodiversity Net Gain Plan (MKA Ecology, January 2023) in order to provide the measurable net gains outlined in the report. Annotated photographs of the implemented landscaping shall be submitted to the Local Planning Authority for approval prior to occupation.

Reason: To ensure that the scheme complies with Policy PCS13 of the Portsmouth Plan and the NPPF.

### **Drainage**

- 11) Prior to the occupation of the development hereby approved an updated Drainage Strategy shall be submitted to an approved in writing by the Local Planning Authority. The updated Strategy shall provide information on the SuDS Infiltration details and information on the separation of water catchments between the site and the adopted highway and details on the operation and maintenance schedule for all drainage works. The works shall then be implemented as approved.

Reason: In the interests of flood risk and surface water drainage pursuant to Policy PCS12 of the 2012 Portsmouth Plan.

### **Hard/Soft Landscaping**

- 12) (a) Notwithstanding the submitted details, the development hereby permitted shall not be occupied/brought into use until detailed hard and soft landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; and

(b) Unless otherwise agreed in writing with the Local Planning Authority, the hard landscaping schemes approved pursuant to part (a) of this Condition shall completed prior to first occupation of the building hereby permitted; and

(c) The soft landscaping schemes approved pursuant to part (a) of this Condition shall be carried out within the first planting/seeding season following the first occupation of the building. Any trees/shrubs which, are removed or become damaged or diseased shall be replaced in the next planting season with others of the same species, size and number as originally approved.

Reason: To secure a high-quality setting to the development and ensure adequate external amenity space for future users of the building in the interest of visual and resident amenity in accordance with Policy PCS23 of the Portsmouth Plan (2012).

### **Highways**

#### **CEMP**

- 13) No development (with the exception of remedial works) shall take place until a Construction Environmental Management Plan (CEMP) that describes measures to control, amongst other matters, hours of working, parking of operatives vehicles, deliveries to the site, noise, dust and lighting arising from the construction phase of the development has been submitted to and approved in writing by the Local Planning Authority. The construction works shall be undertaken in accordance with this approved plan.

Reason: Required before commencement of development in order to minimise the impact of the construction period In the interest of highway safety, in accordance with Policy PCS17 of the Portsmouth Plan.

### Parking

- 14) The proposed commercial units contained within this application shall not be occupied, until the area shown on the submitted layout as vehicle parking space has been provided, surfaced and drained in accordance with details submitted to and approved in writing by the Local Planning Authority. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2018 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking spaces.

Reason: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to hazardous on-street parking and in accordance with Policy PCS17 of the Portsmouth Plan.

### Electric Charging Points

- 15) No part of the development shall commence above slab level until details of the provision of the electric vehicle charging points being submitted to and approved in writing by the Local Planning Authority. Details shall include the location, charging type (power output and charging speed), associated infrastructure and timetable for installation. The development shall be implemented in accordance with the approved details and shall thereafter be maintained.

Reason: In the interests of sustainability in accordance with paragraph 111E of National Planning Policy Framework 2021.

### Cycle storage

- 16) The development hereby permitted shall not be occupied/brought into use until bicycle storage facilities have been provided in accordance with a detailed scheme first submitted to and approved in writing by the Local Planning Authority. The scheme shall include, but not be limited to: details of any storage structures, lockers, maintenance facilities, electric charging points, security measures to protect cycles and users; and (b) The bicycle storage facilities approved pursuant to part (a) of this Condition shall thereafter be permanently retained for the storage of bicycles at all times.

Reason: To ensure adequate provision for and to promote and encourage cycling as an alternative to use of the private motor car in accordance with policies PCS14, PCS17 and PCS23 of the Portsmouth Plan (2012).

### Travel Plan

- 17) Prior to the first occupation of the commercial units, a final Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include provision of the arrangements for the appointment of a Travel Plan Coordinator, SMART targets and initiatives (including financial) for promoting sustainable transport with particular emphasis on walking, bicycle use together with details of future monitoring and update procedures. The Travel Plan shall be implemented upon first use of the venue and shall be kept in place, and updated, thereafter. The approved travel plan shall be continually monitored with the results of the monitoring and any recommended actions submitted to and approved in writing to the Local Planning Authority on an annual basis starting from the date of the approval of the first Travel Plan, with the approved recommendations implemented as agreed as part of the annual review, improvement and reduction of car dependency.



Reason: To minimise impact on the surrounding highway network and to encourage the use of more sustainable modes of transport in accordance with Policies PCS17 and PCS23 of the Portsmouth Plan (2012).

#### Energy Sustainability

- 18) Within 3 months of first occupation of the buildings hereby approved an Energy Confirmation Report shall be submitted to the Local Planning Authority. The report shall set out the energy efficiency measures employed in the buildings to achieve the efficiency measures set out in the Energy Strategy by MBA Consulting Engineers (Issues P1, January 2023).

Reason: In the interests of energy efficiency and sustainability pursuant to Policy PCS15 of the 2012 Portsmouth Plan.

#### Planning Uses

- 19) Notwithstanding the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any other subsequent act, the development hereby shall only be used for uses falling within Use Class E(g)(i), E(g)(ii), E(g)(iii), B2 and B8 unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of employment and the economy pursuant to Policy PCS11 of the 2012 Portsmouth Plan.

#### Informatives

Bats: Bats and their roosts receive strict legal protection under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017. All work must stop immediately if bats, or evidence of bat presence (e.g. droppings, bat carcasses or insect remains), are encountered at any point during this development. Should this occur, further advice should be sought from Natural England and/or a professional ecologist.

Infrastructure: The Applicant/land Owner is respectfully reminded of the proximity of the site to the railway line and an electricity substation, and so must secure the necessary consents, licenses, etc. with the relevant parties.

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# Agenda Item 5

23/00348/FUL

WARD: ST JUDE

TREMATON THE THICKET SOUTHSEA PO5 2AA

CONSTRUCTION OF 3NO. DWELLING HOUSES (FOLLOWING DEMOLITION OF EXISTING FLATS)

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=RRME4QMOHP600](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=RRME4QMOHP600)

**Application Submitted By:**

Mr Matthew Blackden  
Emrys Architects

**On behalf of:**

Mr Gary Elliott  
Elliott Wood Partnership Ltd

**RDD:** 17th March 2023

**LDD:** 29th May 2023

## 1.0 SUMMARY OF MAIN ISSUES

1.1 The application has been brought to the Planning Committee for determination at the request of Councillor Hugh Mason and due to the number of objections (6) received. Councillor Mason has requested that the application be presented at Committee due to the increase in size of the proposed development in a sensitive area of Southsea.

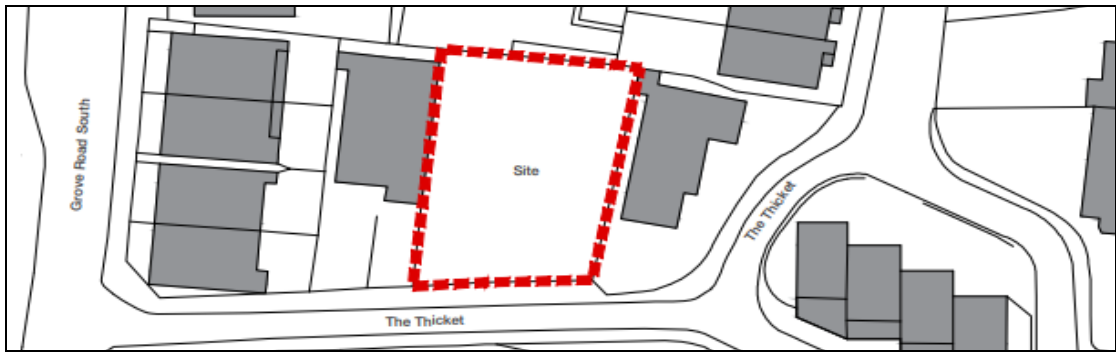
1.2 The main issues for consideration are:

- The principle of the development;
- Design and impact on the 'Owen's Southsea' Conservation Area;
- Impact on residential amenity;
- Standard of Accommodation;
- Highway Impacts;
- Waste;
- SPA Mitigations;
- Sustainable design and construction;
- Flood risk, drainage and utilities;
- Human Rights;
- Equality Act;
- Community Infrastructure Levy (CIL); and
- Other Issues.

## 2.0 SITE, PROPOSAL AND RELEVANT PLANNING HISTORY

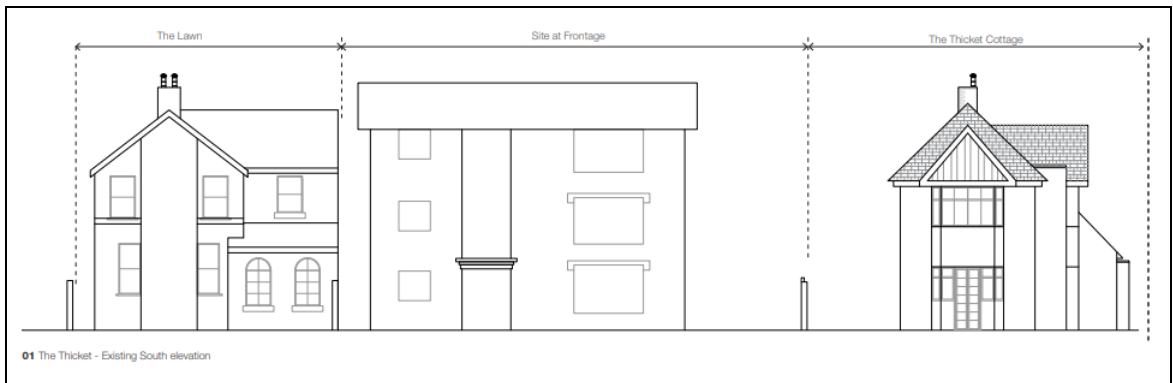
### 2.1 Site and Surroundings

2.2 The site lies on the northern side of The Thicket, near to its junction with Grove Road South, and is currently occupied by a three-storey, red brick 1960s building containing three 2-bedroom flats. The building is set back from the road and there is an existing parking area in front of the building with access from The Thicket, as well as three flat roofed garages to the rear.

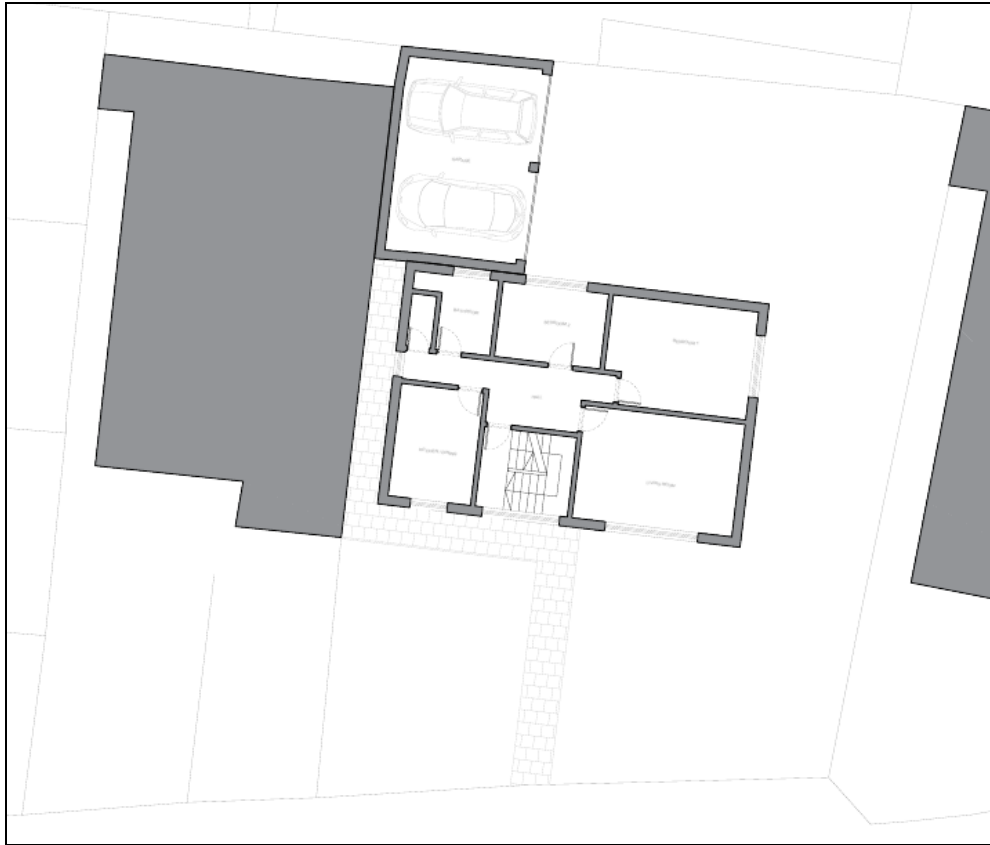


**Figure 1 Block Plan**

- 2.3 The area surrounding the site is predominantly residential in character, comprising a mix of houses and flats. The adjacent properties to the east and west are both two-storey houses. To the south of the site is the now-closed St Johns College and associated sports courts. To the north of the site is a development of two-storey housing with associated parking area and beyond this is the Elm Grove District Centre. The site is also located in close proximity to the bus services by Telephone House, Southsea Town Centre to the south and Albert Road to the east.
- 2.4 The application site is located at the Northern edge of the Owen's Southsea Conservation Area (No.12). This is a large Conservation Area dominated by the period 'Gothic' buildings of Thomas Ellis Owen ('The Father of Southsea') and is amongst the most significant and special of the City's 25 Conservation Areas. As such the overall significance of the area is considered high. There is also an Area Tree Preservation Order (TPO0045) covering the site, although it is understood there are no trees on the site itself.



**Figure 2 Existing Street frontage, south elevation**



**Figure 3 Existing Site Plan**

2.5 Proposal

2.6 Planning Permission is sought for the construction of three dwellinghouses following the demolition of the existing building.

2.7 The existing three storey building is set back from the roadway by approximately between 7.5m (on the eastern edge) and 9.44m (on the western edge). The building measures approximately 8m in depth, 12m in width with a pitched roof measuring 7.3m at its eaves and 8.7m at its maximum height.

2.8 The proposed three storey properties would be set back from the roadway by approximately 8m. They would be staggered to follow the existing curve of the roadway; the frontage would include planting and provide one car parking space per dwelling. The building would feature pitched roofs, with a gabled frontage. The maximum height of the dwellings would be 9.4m and have an eaves height of approximately 7.6m. Each building would have a width of 5m, each would have a depth of 10.3m (not including front balcony). The properties would have an identical red-brick finish, with timber panelled ground floor bike storage and elements of hung tile and include slate tiled roofs. Each dwelling would feature rear garden space measuring between 3.9m-5.3m of depth, two of the properties would also feature direct side access routes. All of the properties would include front elevation balconies, projecting at first floor level, and recessed at second floor.



Figure 4 Proposed Layout

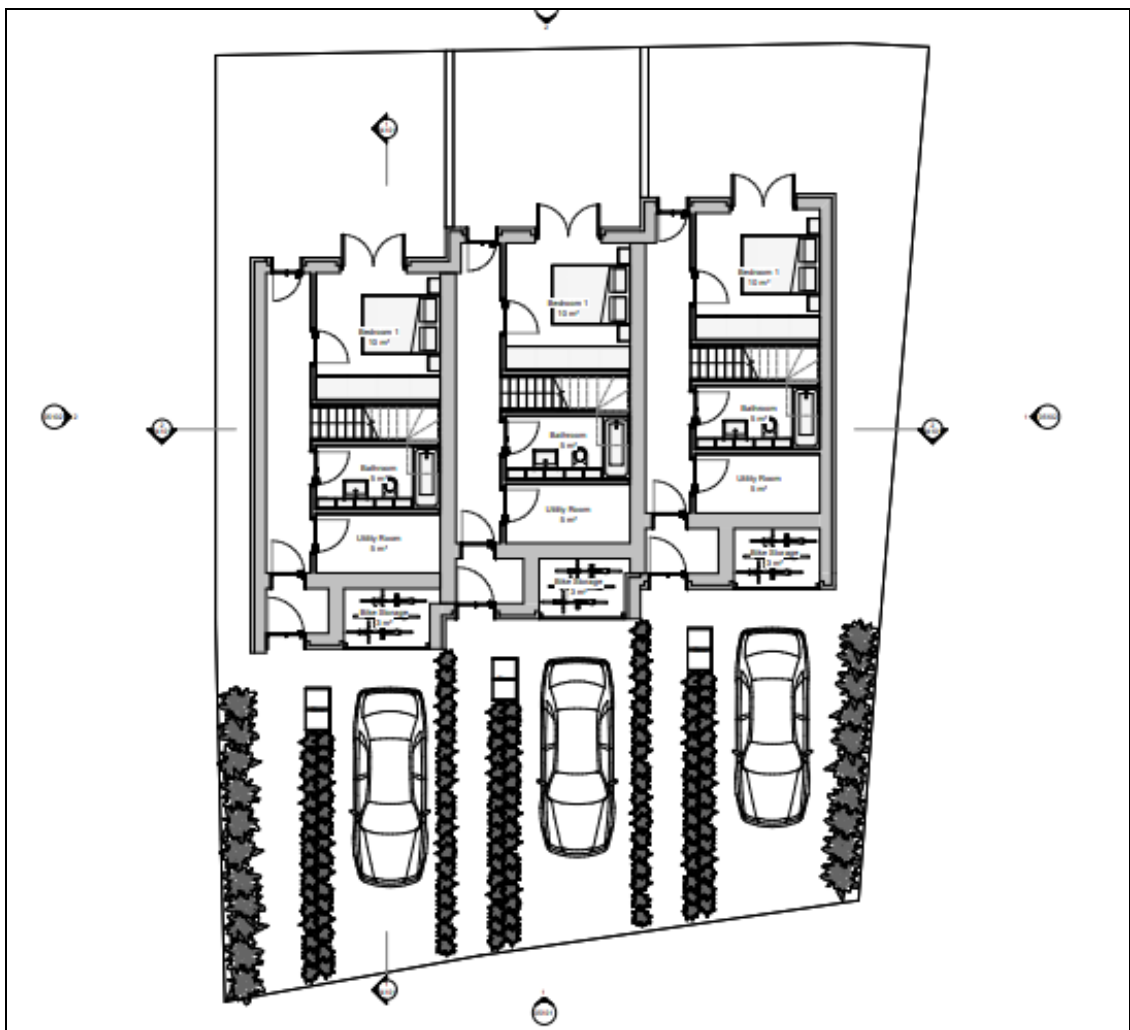


Figure 5 Ground Floor and Site Plan



**Figure 6 Proposed front south of the dwellings.**

## 2.9 Planning History

- 2.10 A\*11136/C: Demolish dwellinghouse and redevelop site by erection of three-storey block of 3 flats together with 3 garages at rear. Conditional Permission (12.01.1967).

## 3.0 **POLICY CONTEXT**

- 3.1 In addition to the aims and objectives of the National Planning Policy Framework (2021), the relevant policies within the relevant policies within the Portsmouth Plan (Jan 2012) would include:

- PCS10 - Housing Delivery
- PCS13 - Greener Portsmouth
- PCS15 - Sustainable Design & Construction
- PCS17 - Transport
- PCS19 - Housing Mix
- PCS21 - Housing Density
- PCS23 - Design & Conservation

- 3.2 In addition to the above development plan policies the Solent Recreation Mitigation Strategy (2017) and the Updated Interim Nutrient Neutral Mitigation Strategy (June 2022), Housing Standards SPD (January 2013), the Parking Standards & Transportation SPD (July 2014) are also material to the determination of the application.

## 4.0 **CONSULTATIONS**

### 4.1 Conservation Officer

- 4.2 No objection. Very detailed comments provided, which are online, and are summarised here as: A Conservation Area of high significance. No objection to loss of existing property, nor to size and design of proposal. Materials conditions requested to ensure a satisfactory outcome and addition to the Conservation Area.

### 4.24 Natural England

- 4.25 No objection, at time of writing the LPA is awaiting a final response to a submitted Appropriate Assessment.

4.26 Highways Engineer

4.27 No objection. No impact on local highway network. SPD parking expectation is 4.5 car spaces, and 2 cycle spaces for each dwelling. No parking survey information submitted to demonstrate on-street capacity within 200m to accommodate any additional demand resulting from the development. May result in residents driving around the area hunting for a parking space particularly in the evenings. It is noted that there are bus services in close proximity and a range of key facilities within walkable distances that could lessen the requirement for a private motor vehicle. Request electric charging facilities by condition.

4.31 Environmental Health

4.32 No objection.

4.33 Contaminated Land Team

4.34 Cognisant of the former adjoining garage use, no objection subject to pre-commencement and occupation conditions.

4.35 Tree Officer

4.36 No objections.

4.37 Hampshire Swifts

4.38 No objection, subject to securing three swift bricks via condition.

## 5.0 REPRESENTATIONS

5.1 Six objections on the following grounds:

- a) Disruption caused by the construction work, given the width of the Thicket;
- b) Loss of privacy from front balconies;
- c) Reduction of parking facilities;
- d) Increase size of the development over the existing building;
- e) Loss of light to the Thicket Cottage;
- f) Overly dominant on the surrounding area;
- g) Loss of existing flats and increase pressure on housing stock;
- h) Overlooking properties to the rear;
- i) Carbon footprint of the development;
- j) Dust and dirt from demolition;
- k) Concern about possible pollution/contamination due to former garage site nearby;  
and
- l) Size of the rear gardens.

## 6.0 COMMENT

6.1 The main issues for consideration are:

- The principle of the development;
- Design and impact on the 'Owen's Southsea' Conservation Area;
- Impact on residential amenity;
- Standard of Accommodation;
- Highway Impacts;
- Waste;
- SPA Mitigations;



- Sustainable design and construction;
- Flood risk, drainage and utilities;
- Human Rights;
- Equality Act;
- Community Infrastructure Levy (CIL); and
- Other Issues.

6.2 The principle of the development

6.3 Policy PCS10 of the Local Plan states that the City Council will plan for an additional 7,117 - 8,387 homes between 2010 - 2027 that will be provided in designated areas and through conversions and redevelopment of previously developed land. The application would represent no change in the overall number of dwellings on the site, however it would increase the size of the dwellings and represent a benefit by the provision of three 3-bedroom properties to replace three 2-bedroom properties.

6.4 Design and impact on the 'Owen's Southsea' Conservation Area

6.5 Policy PCS23 of the Portsmouth Plan echoes the principles of good design set out within the National Planning Policy Framework and requires all new development be well designed and respect the character of the city. The following will be sought in new development, appropriate scale, density, layout, appearance, and materials in relation to the particular context.

6.6 In addition, when determining planning applications, the Local Planning Authority (LPA) must also consider what impact the proposal would have on both designated and non-designated heritage assets. Section 72 of the Listed Buildings and Conservation Areas Act 1990 (as amended) requires that LPAs pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. The site is located within the 'Owen's Southsea Conservation Area

6.7 The 'Owen's Southsea' Conservation Area guidelines state that *"Redevelopment will not generally be acceptable in this area except where properties are non-conforming use and out of character with the Conservation area"* and *"Where redevelopment is acceptable development briefs will be prepared to ensure that the development is in character with that of the Conservation area."*

6.8 As set out within the Conservation officer's comments, the existing building is of limited architectural value or interest and its contribution to the character and appearance of the Conservation Area is on balance not considered to be positive (or is 'neutral' at the most). Given the limited contribution the building makes, the principle of its loss is considered acceptable in conservation/heritage terms. The re-development of the existing building is therefore considered to be supported by the Conservation Area Guidelines and Conservation Officer.

6.9 The proposed buildings are acceptable in their physical dimensions, form, siting and visual 'presence' and therefore impact from the public realm within the Conservation Area. The increased size and scale of the proposal is not considered sufficient to make the proposed a domineering or overbearing feature when experienced from the public realm. With respect to the key NPPF test, the proposal is not considered to cause harm to the heritage asset of the Conservation Area.

6.10 In terms of styling and appearance, it represents a relatively simple and 'pared-back' contemporary solution for the site. It is considered that this is an acceptable design solution for the development, rather than creating a pastiche building. The overall acceptability of the development will hinge on the quality of the materials and finish to ensure a quality development. The Conservation Officer has suggested three conditions in relation to the details and materials and these are considered to be practical and therefore will be attached to any permission to ensure a quality development is achieved.

Subject to these details and materials the scheme is considered to preserve the character or appearance of the 'Owen's Southsea' Conservation Area, and to meet the provisions of Policy PCS23 of the Portsmouth Plan (2012) and the NPPF (2021).

- 6.11 Impact on residential amenity
- 6.12 Policy PCS23 of the Portsmouth Plan requires new development to protect the amenity of neighbouring residents.
- 6.13 The adjacent site to the north is the Hendy Close car park. To the north-east of the site are the rear gardens and properties along Cambrian Terrace (Nos.1-10) with the closest being No.10. While the proposal would bring the build form at the site closer to these properties, it would remain approximately 11.8m away from the closest property on this terrace. This relationship would be angled and to the rear of these dwellings. Overall, this relationship is acceptable in regards overlooking and sense of enclosure.
- 6.14 The neighbouring property to the east (The Thicket Cottage) would be set away from the side elevation of the proposed building by 2.5m at its closest (to the front (south)) and up to 3.5m from the further point (to the rear (north)) of the development. The Thicket Cottage features a side access between the western side of the property and site's front garden along this boundary. The property features several side (west) facing windows at ground and first floor level. The existing boundary between the two properties is an approximately 1.8m high brick wall. At ground floor, The Thicket Cottage features three side (west) facing windows, one of which serves a WC. The other two serve a kitchen dining room area, which is also served by a large bay window to the east. At first floor level the property features three side (west) facing windows, one of these serves the stairwell, the other the hall and the other an ensuite bathroom. Given that none of these windows are the sole windows to habitable rooms, or serve non-habitable rooms, and would still receive a daylight and a fair amount of sunlight, it is on balance considered that the impact on the amenity of these windows is acceptable. Outlook from these windows would be affected by the new building being taller and closer than the existing, but it is not considered the result would be unacceptable.
- 6.15 The proposed development includes three projecting balconies at first floor level. To ensure they do not result in a harmful degree of overlooking towards the easterly neighbour (The Thicket Cottage) it is proposed that screening is included along the east side of the most eastern balcony to prevent overlooking of the neighbour's front garden (which is set behind a high wall as their only private garden). Subject to this condition this relationship is on balance considered to be acceptable.
- 6.16 The only neighbour to the south of the site is the now closed St. Johns College. It is considered that either in the site's previous use or in any future use/re-development there is sufficient separation from the site to ensure an acceptable relationship and not to prejudice any future development.
- 6.17 The neighbour to the west is 'The Lawn' is a two-storey detached property. The existing building on site is set closer to this neighbour than the proposed re-development. The proposal would maintain the separation between the two properties. As such it is not considered that the change would result in any significant impact on this neighbour's amenity. Further past this property you have the rear gardens of No.44-46 Grove Road South. It is not considered that the development would present any concerns towards the amenity of these neighbours by the built form. The western front balcony will be screened to prevent any possible overlooking towards these residents.
- 6.18 The applicants have provided a sun study which establishes while there would be a loss of sunlight to the adjoining neighbours to the east, it is not considered be sufficient to withhold planning permission in this instance. Overall, the proposal is on balance considered to have an acceptable relationship towards the surrounding neighbour amenity and accords with Policy PCS23 of the Portsmouth Plan (2012).

6.19 Standard of Accommodation

6.20 Policy PCS19 of the Portsmouth Plan states that all new development and housing conversions should be of a reasonable size appropriate to the number of people the dwelling is designed to accommodate. This policy, along with the Nationally Described Space Standards (NDSS), seeks to ensure that each new dwelling meets these requirements.

6.21 Each of the dwelling would exceed the Space Standards. Each of the dwellings would also have a good standard of amenity and benefit from an acceptable level of light and outlook.

6.22 Each of the dwellings would benefit from a private rear garden and balcony space at first and second floor level. Additionally, they are all located near to the Common and Southsea Seafront which would provide further external amenity space.

6.23 Highway Impacts

6.24 Policy PCS17 ensures, inter alia, that the City Council and partners will reduce the need to travel and provide sustainable modes and promote walking and cycling.

6.25 The application has been reviewed by the Council's Highways Officer, and no objection has been received.

6.26 Portsmouth City Council's Parking SPD gives the expected level of vehicle and cycle parking within new residential developments. The requirement for a 3-bedroom dwelling is 1.5 vehicle spaces and 2 cycle space for each dwelling. The site provides each dwelling with one designated parking space as well as cycle storage to the front.

6.27 The site is in a highly sustainable location near shops, services, employment, and public transport. Therefore, it is the case that a future occupier of the development could live with only one car parking space. As such it considered that the under-provision of parking is not sufficient to withhold permission.

6.28 Waste

6.29 Waste storage facilities are shown to the front of each unit, which is considered to be acceptable. A condition will be attached to any permission requiring full details of the storage to be submitted and approved prior to occupation.

6.30 SPA Mitigations

6.31 The Conservation of Habitats and Species Regulations 2017 [as amended] and the Wildlife and Countryside Act 1981 place duties on the Council to ensure that the proposed development would not have a significant effect on the interest features for which Portsmouth Harbour is designated as a Special Protection Area, or otherwise affect protected habitats or species. The Portsmouth Plan's Greener Portsmouth Policy (PCS13) sets out how the Council will ensure that the European designated nature conservation sites along the Solent coast will continue to be protected.

6.32 There are two potential impacts resulting from the accommodation proposed as part of this development. The first being potential recreational disturbance around the shorelines of the harbours, and the second being from increased levels of nitrogen and phosphorus entering the Solent water environment.

6.33 Officers have submitted an Appropriate Assessment, dated 6<sup>th</sup> June 2022, to Natural England who have yet to respond at the time of publication, if a response is received prior to the meeting, Members will be updated, and any legal agreement will not be completed until confirmation has been received. It is assumed that no objection will be

raised to the proposal subject to the necessary mitigation being secured. The mitigation contribution for the recreational disturbance to birds is £516. It is considered that as the number of dwellings would be unchanged that nitrate mitigation would not be required.

6.34 The recommendation is for the Committee to recommend the granting of permission subject to the completion of a legal Agreement to secure the mitigation payment for the recreational bird disturbance.

6.35 Hampshire Swifts have requested that 3 swift bricks are incorporated into the building. This will be conditioned to ensure it is achieved on site.

6.36 Sustainable design and construction

6.37 Policy PCS15 of the Portsmouth Plan requires new development to be designed to be energy efficient and originally required development to meet specific requirements under the Code for Sustainable Homes.

6.38 The Ministerial Statement of 25th March 2015 set out that Local Planning Authorities should no longer require compliance with specific levels of the Code for Sustainable Homes (the Code) or to require a certain proportion of the Dwelling Emission Rate (DER) to be offset through Low or Zero Carbon (LZC) Energy. Policy PCS15 has required both of these in all new dwellings since its adoption in 2012. However, the Statement does set out that a standard of energy and water efficiency above building regulations can still be required from new development in a way that is consistent with the Government's proposed approach to zero carbon homes. As such, the standards of energy and water efficiency that will be required from new residential development are as follows:

- Energy efficiency - a 19% improvement in the DER over the Target Emission Rate as defined in Part L1A of the 2013 Building Regulations
- Water efficiency - 110 litres per person per day (this includes a 5 litre allowance for external water use).

6.39 The applicant has provided a Sustainability Statement which sets out that the development will meet the required standards as set out in Policy PCS15 of the Portsmouth Plan (2012). In addition, it also highlights that Mechanical Ventilation Heat Recovery units are included within the scheme to reduce energy needs for the occupiers, a preference will be given to locally sourced materials and suppliers who offer take-back schemes to ensure that excess materials are not wasted. The insulation will prioritise substances that have a low Global Warming Potential (GWP) where possible. Additionally, while not proposed within the application, there could be scope of Solar PV units to the roof in the future but not included within the application.

6.40 Flood risk, drainage and utilities

6.41 The site is located within Flood Zone 1 (areas of least risk) and there is no increase in the extent of hardstanding on site and as such the scheme is unlikely to give rise to any flood risk and drainage issues.

6.42 Human Rights

6.43 The Council is required by the Human Rights Act 1998 to act in a way that is compatible with the European Convention on Human Rights. Virtually all planning applications engage the right to the enjoyment of property and the right to a fair hearing. Indeed, many applications engage the right to respect for private and family life where residential property is affected. Other convention rights may also be engaged. It is important to note that many convention rights are qualified rights, meaning that they are not absolute rights and must be balanced against competing interests as permitted by law. This report seeks such a balance.

#### 6.44 Equality Act

6.45 Under section 149 of the Equality Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Further the Council must advance equality of opportunity and foster good relation between those who share a relevant protected characteristic and those who don't. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Having had due regard to the public sector equality duty as it applies to those with protected characteristics in the context of this application, it is not considered that the officer's recommendation would breach the Council's obligations under the Equality Act 2010.

#### 6.46 CIL (Community Infrastructure Levy)

6.47 The proposal would result in the creation of 3 new dwellings totalling 386.6sqm of GIA floorspace. The likely CIL chargeable amount will be £64,621.44. If existing building discount can be applied to the 242.19sqm of existing GIA floorspace, with the submission of in use evidence, the likely CIL chargeable amount will be £24,138.49. A CIL Form 1 was submitted with the application indicating that the building is still in lawful use. The estimate is based on the figures supplied in CIL Form 1.

#### 6.48 Other Issues

6.49 Given the site's location and the limited availability of external space, it is considered appropriate under its specific circumstance to attach a condition requiring a Construction Management Plan in order to assure that there will not be an unduly significant impact from construction through noise, disruption, or waste.

6.50 Concerns have been raised around dust and disturbance from the work required to complete the development, there is appropriate control through the Public Protection to regime to manage this matter.

#### 6.51 Conclusion

6.52 The site is appropriate in principle and contribute three good sized dwellings with external amenity space, which is considered to be an improvement over the existing use. The location is very well served by shops, services, employment and public transport, and an appropriate level of amenity would be afforded to the development's residents. The effect on surrounding residents' amenities would be acceptable, and the other matters addressed above are also deemed acceptable. The proposals constitute sustainable development and should be granted planning permission.

**RECOMMENDATION I** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to grant Conditional Permission subject to

- (i) The receipt of 'no objection' from Natural England, within 21 days of the consultation sent to them, and;
- (ii) The completion of a Legal Agreement to secure mitigation of the development with respect to the recreational disturbance to birds in the Special Protection Areas;

**RECOMMENDATION II** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary, and

**RECOMMENDATION III** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to refuse planning permission if a Legal Agreement to secure the

mitigation of the development with respect to the Special Protection Areas pursuant to Recommendation I has not been completed within three months of the date of this resolution.

## **RECOMMENDATION                      Conditional Permission**

### Time Limit

1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

### Approved Plans

2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings -

Drawing numbers:

2204-EMR-ZZ-RL-AP-A-01101 PL01;  
2204-EMR-ZZ-01-AP-A-02102 PL01;  
2204-EMR-ZZ-ZZ-AP-A-04101 PL01;  
2204-EMR-ZZ-RL-AP-A-02104 PL01;  
2204-EMR-ZZ-02-AP-A-02103 PL01;;  
2204-EMR-ZZ-ZZ-AP-A-05102 PL01;  
2204-EMR-ZZ-00-AP-A-02101 PL01; and  
2204-EMR-ZZ-ZZ-AP-A-05101 PL01.

Reason: To ensure the development is implemented in accordance with the permission granted.

### Land Contamination (Prior to Commencement)

3) No works pursuant to the development hereby approved shall commence until there has been submitted to and approved in writing by the Local Planning Authority (or within such extended period as may be agreed with the Local Planning Authority) the following in sequential order:

a) A desk study (undertaken following best practice including BS10175:2011+A2:2017 'Investigation of Potentially Contaminated Sites Code of Practice) documenting all the previous and current land uses of the site and potential contaminants associated with those uses. The report shall contain a conceptual model (diagram, plan, and network diagram) showing the potential contaminant linkages (including consideration of asbestos), including sampling rationale for a site investigation scheme based on the conceptual model, explaining all proposed sample locations and depths (Phase 1 report).

b) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the conceptual model in the desk study (to be undertaken in accordance with BS10175:2011+A2:2017 and BS8576:2013 'Guidance on investigations for ground gas – Permanent gases and volatile organic compounds (VOCs)'). The report shall refine the conceptual model of the site and confirm either that the site is currently suitable for the proposed end use or can be made so by remediation. Remedial options shall be detailed with a remedial options appraisal. The report shall include a detailed assessment of the risk to all receptors that may be affected, including those off-site (Phase 2 report).

c) A remediation method statement report detailing the remedial scheme and measures to be undertaken to avoid risk from contaminants and/or gases when the development hereby authorised is completed, detailing proposals for future maintenance, monitoring and arrangements for contingency action as necessary. If identified risks relate to bulk gases, this will require the submission of the design report, installation brief, and validation plan as detailed

in BS8485:2015+A1:2019 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings and have consideration of CIRIA 735 Good practice on the testing and verification of protection systems for buildings against hazardous ground gases. The remedial options appraisal shall have due consideration of sustainability as detailed in ISO 18504:2017 Soil quality – Sustainable remediation. It shall include the nomination of a competent person to oversee the implementation of the remedial scheme and detail how the remedial measures will be verified on completion (Phase 3 report). Any changes to these components require the written consent of the Local Planning Authority.

The scheme shall be implemented as approved.

Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with saved Policy DC21 of the Portsmouth City Local Plan (2006), and paragraph 183 of the National Planning Policy Framework (2021). The responsibility for safe development rests with landowner / developer.

#### Land Contamination (Prior to Occupation)

4) The development shall not be occupied until a stand-alone verification report has been submitted by the competent person approved pursuant to condition (3)c) above. The report shall demonstrate that the remedial scheme has been implemented fully in accordance with the remediation method statement and demonstrate that site remediation criteria have been met. For the verification of gas protection schemes the applicant should follow the agreed validation plan. Thereafter the remedial scheme shall be maintained in accordance with the details approved under conditions (3) c).

Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with saved Policy DC21 of the Portsmouth City Local Plan (2006), and paragraph 183 of the National Planning Policy Framework (2021). The responsibility for safe development rests with landowner / developer.

#### Materials

5) (a) Notwithstanding the submitted details, no development works other than those of ground works, and construction of the building's foundations shall take place until: a full and detailed schedule of all materials and finishes (including three different brick samples; three different window sample sections; and three samples of roofing slate (natural slate or clay tiles shall be used) to be used in the construction of the external surfaces of the development hereby permitted has been submitted to and approved in writing by the Local Planning Authority; and

(b) The development shall be carried out in full accordance with the schedule of materials and finishes agreed pursuant to part (a) of this Condition

Reason: To secure a high quality finish to the development in the interests of visual amenity in accordance with Policy PCS23 of the Portsmouth Plan (2012), and the aims and objectives of the National Planning Policy Framework (2021).

#### Ecology

6) Three swift bricks shall be installed prior to occupation of the development and thereafter shall be retained for the life of the development.

Reason: To secure sustainable biodiversity enhancements in accordance with Policy PCS13 of the Portsmouth Plan (2012).

## Landscaping

7) Notwithstanding the submitted details, the development hereby permitted shall not be occupied/brought into use until detailed hard and soft landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; the scheme shall include:

a) the alignment, height and full architectural details of all **boundary treatments** (front, rear and side) walls, gates and fences and other means of enclosure; the landscaping for the site to include **soft landscaping** and planting which shall specify species, planting sizes, spacing and numbers of trees/shrubs to be planted; details of any **hard surfacing**, to include materials and **sustainable drainage** details; details of a **lighting** scheme for the front parking area, to include design location and the intensity of the illumination.

b) Unless otherwise agreed in writing with the Local Planning Authority, the details approved pursuant to this Condition shall be completed prior to first occupation of the building hereby permitted.

c) The soft landscaping schemes approved pursuant to part (a) of this Condition shall be carried out within the first planting/seeding season following the first occupation of the building or the completion of the development whichever is the sooner. Any trees/shrubs which, are removed or become damaged or diseased shall be replaced in the next planting season with others of the same species, size and number as originally approved.

Reason: To secure a high-quality setting to the development, to minimise the risk of flooding from surface water run-off, and in the interests of amenity and biodiversity ensuring of an appropriate visual appearance for the development in accordance with Policies PCS12, PCS13, PCS23 of the Portsmouth Plan (2012)

## Sustainable construction

8) Unless otherwise agreed in writing by the Local Planning Authority, the development hereby permitted shall not be occupied until written documentary evidence has been submitted to, and approved by, the local planning authority, demonstrating that the development has achieved:

- a minimum of a 19% improvement in the dwelling emission rate over the target emission rate, as defined in The Building Regulations for England Approved Document L1a: Conservation of Fuel and Power in New Dwellings (2013 edition). Such evidence shall be in the form of an As Built Standard Assessment Procedure (SAP) Assessment, produced by an accredited energy assessor; and
- a maximum water use of 110 litres per person per day as defined in paragraph 36(2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a post-construction stage water efficiency calculator.

Reason: To ensure that the development as built will minimise its need for resources and be able to fully comply with policy PCS15 of the Portsmouth Plan (2012).

## Bicycle Storage

9) No part of the development hereby permitted shall be occupied/brought into use until the cycle storage facilities as shown on plan 2204-EMR-ZZ-00-AP-A-02101 and 2204-EMR-ZZ-ZZ-AP-A-05101 have been provided and thereafter these facilities shall be permanently retained for the storage of bicycles at all times.

Reason: To ensure adequate provision for and to promote and encourage cycling as an alternative to use of the private motor car in accordance with policies PCS14, PCS17 and PCS23 of the Portsmouth Plan (2012).



### Refuse Storage

10) No part of the development hereby permitted shall be occupied/brought into use until details of the facilities for the storage of refuse, recyclable materials and food waste have been submitted to and approved by the LPA in writing and thereafter these facilities shall be permanently retained for the storage of refuse and recyclable materials at all times.

Reason: To ensure that adequate provision is made for the storage of refuse and recyclable materials in accordance with policy PCS23 of the Portsmouth Plan (2012).

### CEMP

11) Prior to the commencement of any building operation associated with the building's conversion or enlargement, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include, but not limited to details of: Construction vehicle routing; Site access management; Times of deliveries; Loading/offloading areas; Crane siting; Site office facilities; Contractor parking areas; Method Statement for control of noise, dust and emissions from construction work. The development shall be carried out in accordance with the CEMP approved pursuant to this condition and shall continue for as long as building operations are taking place at the site, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To minimise the potential for conflict with users of the surrounding highway network and to protect the amenity of neighbouring occupiers having regard to the close proximity of the site in accordance with Policies PCS17 and PCS23 of the Portsmouth Plan (2012).

### Balcony screening

12) Prior to the occupation of the development hereby permitted, details of screening for the front first floor balconies on the proposed units shall be submitted to and approved in writing by the LPA. The screening shall be to the east face of the most eastern dwelling and west face of the most western dwelling. Thereafter the screening shall be permanently retained as per the approved details.

Reason: In order to preserve the amenity of the adjacent neighbours in accordance with Policy PCS23 of the Portsmouth Plan (2012).

### Withdrawal of Permitted Development Rights

13) 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 development permitted by Classes A and F of Part 1 of Schedule 2, and Class A of Part 2 of Schedule 2, of the Order shall be carried out without the prior written consent of The Local Planning Authority.

Reason: To ensure the provision of an appropriate level of amenity space for the future occupiers of the development (Part 1, Class A), in the interests of local character and biodiversity (Part 1, Class F), and to maintain local character (Part 2, Class A), in accordance with PCS13 and PCS 23 of the Portsmouth Local Plan.

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# Agenda Item 6

23/00465/FUL

WARD:HILSEA

46 SHADWELL ROAD PORTSMOUTH PO2 9EJ

[23/00465/FUL | Change of use from dwellinghouse \(Class C3\) to purposes falling within Class C3 \(dwellinghouse\) or Class C4 \(house in multiple occupation\) | 46 Shadwell Road Portsmouth PO2 9EJ](#)

**Application Submitted By:**

Mrs Carianne Wells  
Applecore PDM Ltd

**On behalf of:**

Lyons  
Lyons Legacy Ltd

**RDD:** 13th April 2023

**LDD:** 8th June 2023

## 1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee due to the number of objections (twelve) including an objection and call-in request from Cllr Emily Strudwick

1.2 The main issues for consideration in the determination of the application/appeal are considered to be as follows:

- The principle of development;
- Standard of accommodation;
- Parking;
- Waste;
- Amenity impacts upon neighbouring residents;
- Impact upon the Solent Protection Areas; and
- Any other raised matters.

## 2.0 SITE AND SURROUNDINGS

2.1 The application relates to a two-storey, mid-terrace dwellinghouse (Class C3) located on the northern side of Shadwell Road as shown in **Figure 1** below. The dwellinghouse is set back from the road by a small front forecourt and to the rear of the property is an enclosed garden. The existing layout comprises of a lounge, kitchen, and conservatory at ground floor level; three bedrooms and a bathroom at first floor level.

2.2 The application site is within a predominantly residential area characterised by rows of similar two-storey terraced properties with a similar visual style.



*Figure 1 - Site Location Plan*

### 3.0 THE PROPOSAL

3.1 Planning permission is sought for the change of use of the property from a dwellinghouse (Class C3) to a dwellinghouse (Class C3) or House of Multiple Occupation (HMO) (Class C4) use with up to six individuals living together.

3.2 The proposed internal accommodation, as shown in **Figure 2** below, comprises the following:

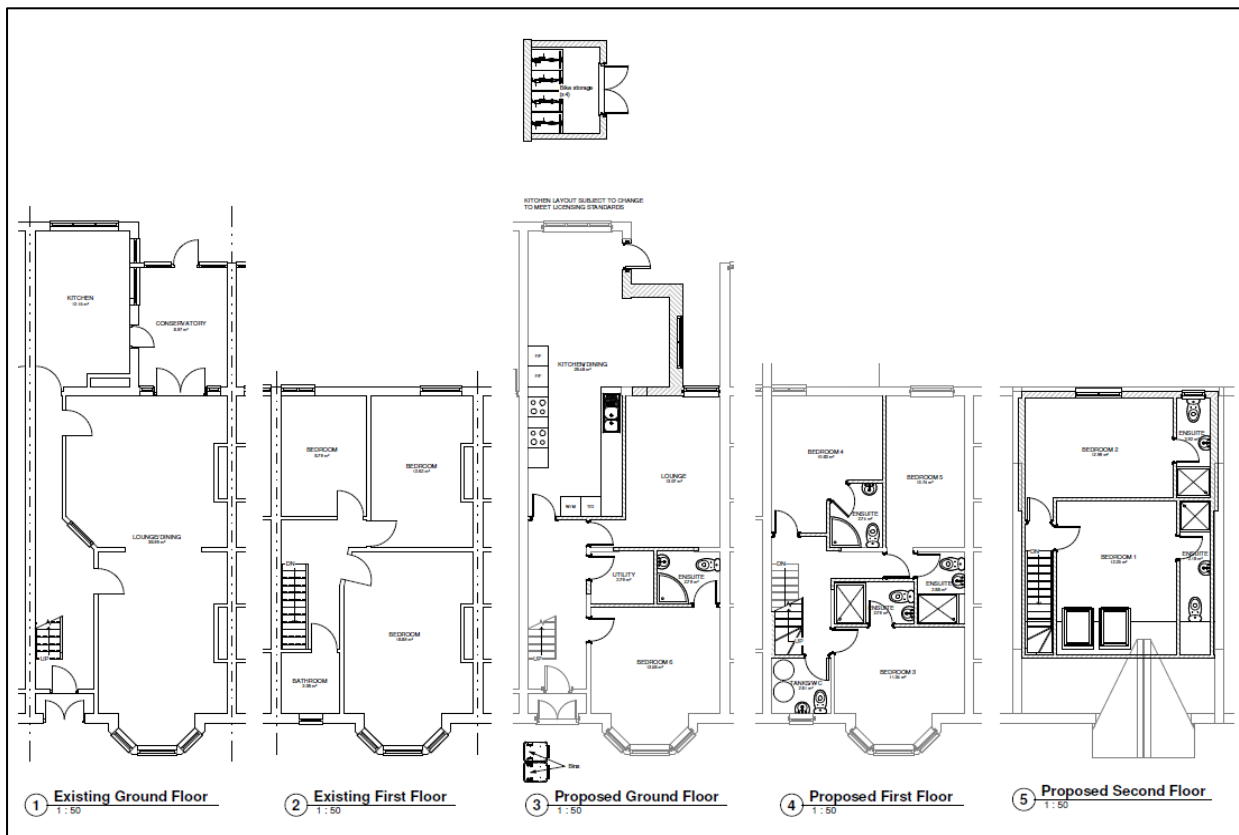
- Ground Floor - One bedroom (with a shower, toilet and handbasin ensuite), Kitchen/Dining room, Living room, and a utility room.

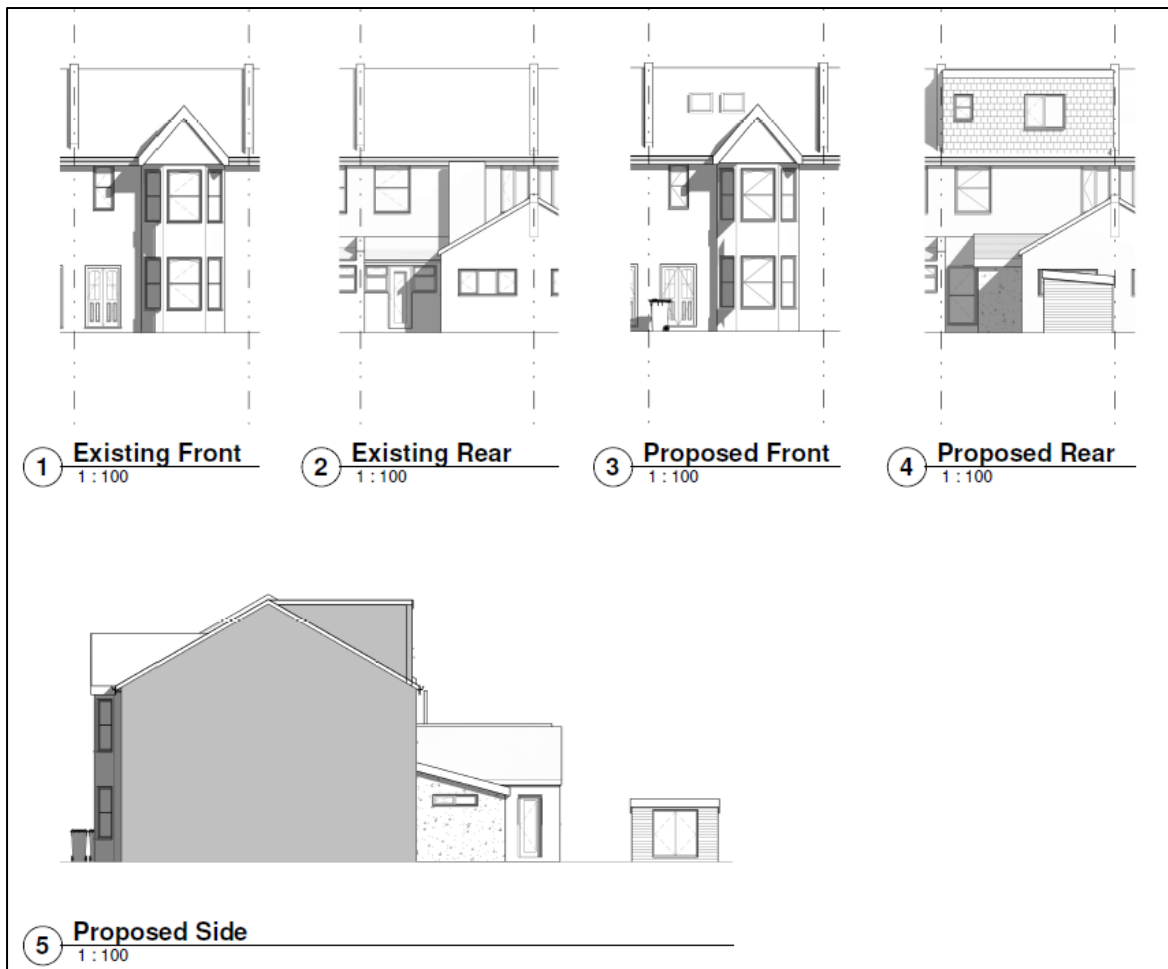
- First Floor - Three bedrooms (all with a shower, toilet and handbasin ensuite) and a shared WC with handbasin
- Second Floor - Two bedrooms (each with a shower, toilet and handbasin ensuite).

3.3 The Applicant intends to construct a small rear extension, a rear dormer extension within the main roof, and roof alterations (front roof lights) as permitted development, as shown below in the drawing below, to facilitate the enlargement of the property before undertaking the proposed development. The extensions and alterations can be completed under permitted development regardless of whether the property is in Class C3 or C4 use.

3.4 Given the external alterations and enlargements to the property are considered to be permitted development, it is not possible to consider the design or amenity impact of the rear dormer or side/rear ground floor extension as part of this application. There would also be the siting of a cycle store within the rear garden, details of which could be secured by planning condition.

**Figure 2 - Proposed plans**





**Figure 3 - Proposed Elevations**

## 4.0 PLANNING HISTORY

4.1 None.

## 5.0 POLICY CONTEXT

5.1 Portsmouth Plan (2012)

5.2 In addition to the aims and objectives of the National Planning Policy Framework (2021), due weight has been given to the relevant policies within the Portsmouth Plan (2012), which include:

- PCS17 (Transport)
- PCS20 (Houses in Multiple Occupation)
- PCS23 (Design and Conservation).

5.3 Other Guidance

5.4 Guidance for the assessment of applications that is relevant to the application includes:

- National Planning Practice Guidance (revised 2021)
- The Parking Standards and Transport Assessments Supplementary Planning Document (2014)

- The Solent Recreation Mitigation Strategy (2017)
- The Updated Interim Nutrient Neutral Mitigation Strategy (2022)
- The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD').

## 6.0 CONSULTATIONS

- 6.1 Private Sector Housing - Based on the layout and sizes, no adverse comments. This property would require to be licenced under Part 2, Housing Act 2004.
- 6.2 Highways Engineer - no reply received
- 6.3 Waste Management - The applicant needs to purchase 2 x 360 litre bins directly from PCC prior to the development going live if the application is granted.

## 7.0 REPRESENTATIONS

- 7.1 Fourteen objections received, including one from Cllr Emily Strudwick, summarised as follows:
- a) Loss of family home from the existing housing stock;
  - b) Increase in noise and disturbance;
  - c) Increase in crime and anti-social behaviour;
  - d) Lack of car parking provision leading to an increase in traffic and exacerbation of existing on-street parking problems;
  - e) Undue strain on local services and infrastructure, including the sewage, drainage and Doctors/Dentists
  - f) Too many HMOs within the area
  - g) Concerns about impact on community
  - h) Noise and pollution from building work;
  - i) Work has already started on site;
  - j) Loss of privacy caused by the rear extension;
  - k) Rear Dormer does not comply with permitted development
  - l) Negative effect on property prices

## 8.0 COMMENT

- 8.1 The main determining issues for this application relate to the following:
- The principle of Development;
  - The standard of accommodation;
  - Impact upon amenity neighbouring residents;
  - Parking;
  - Waste;
  - Impact upon the Solent Protection Areas; and
  - Any other raised matters
- 8.2 Principle of development
- 8.3 Permission is sought for the flexible use of the property for purposes falling within Class C4 (house in multiple occupation) (HMO) or Class C3 (dwellinghouse). The property currently has a lawful use as a self-contained dwelling (Class C3). For reference, a Class C4 HMO is defined as '*a property occupied by between three and six unrelated people who share basic amenities such as a kitchen or bathroom*'.

- 8.4 Policy PCS20 of the Portsmouth Plan states that applications for 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. The adopted Houses in Multiple Occupation SPD (as amended October 2019), sets out how Policy PCS20 will be implemented and details how the City Council will apply this policy to all planning applications for HMO uses. The SPD states that a community will be considered to be imbalanced where more than 10% of residential properties within the area surrounding the application site (within a 50m radius) are already in HMO use.
- 8.5 Based on the information held by the City Council, of the 65 properties within a 50-metre radius of the application site, there is 1 confirmed HMO (Class C4) at 51 Shadwell Road, and 1 unknown/possible HMO at 34 Shadwell Road as shown in **Figure 4** below. Whilst this is the best available data to the Local Planning Authority (LPA) and is updated on a regular basis, there are occasions where properties have been included or omitted from the database in error or have lawfully changed their use away from Class C4 HMOs without requiring the express permission of the LPA.
- 8.6 Following further Officer Investigation, no additional HMOs have been uncovered by the Case Officer. Including the application property, the confirmed HMO at 51 Shadwell Road, and the possible HMO at 34 Shadwell Road, the proposal would bring the percentage of HMOs within the area up to 4.61%. This would be lower than the 10% threshold above which an area is considered to be imbalanced and in conflict with Policy PCS20.



**Figure 4** - Existing HMOs within 50m of the application site

- 8.7 A further policy strand introduced in July 2018, amended in October 2019, seeks to ensure that the amenity and standard of living environment of neighbours and local occupiers is protected. This is explained within Appendix 6 of the HMO SPD, which



references the specific proximity of HMOs to adjacent dwellings and how these circumstances may give rise to a particular risk of harm to amenity and disturbance. These are where: the granting of the application would result in three or more HMOs adjacent to each other, or where the granting of the application would result in any residential property being 'sandwiched' between two HMOs. There is no conflict caused by this proposal with this guidance.

8.8 Having regard to the above, the proposal would comply with the aims and objectives of Policies PCS19 and PCS20 of the Portsmouth Plan (2012).

8.9 Standard of accommodation

8.10 The application seeks, in addition to a C3 use, the opportunity to use the property as a C4 HMO which would, in planning terms, technically allow occupation by up to six individuals. The submitted plans have been checked by officers, and, notwithstanding the annotations on the submitted plans the measured rooms sizes have been used for assessment purposes. For the proposed C4 HMO use, the room sizes have been assessed against the space standards for an HMO as shown in **Table 1** below.

Room	Area Provided	Required Standard
Bedroom 1 (second floor)	12.25m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 2 (second floor)	12.99m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 3 (first floor)	11.34m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 4 (first floor)	10.63m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 5 (first floor)	10.75m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 6 (ground floor)	13.59m <sup>2</sup>	6.51m <sup>2</sup>
Living room (ground floor)	13.07m <sup>2</sup>	Unrequired/additional
Communal Kitchen/Dining area (ground floor)	26.48m <sup>2</sup>	22.5m <sup>2</sup> as all bedrooms exceed 10m <sup>2</sup>
Ensuite bathroom 1 (second floor)	3.18m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 2 (second floor)	2.92m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 3 (first floor)	2.79m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 4 (first floor)	2.74m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 5 (first floor)	2.88m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 6 (ground floor)	2.79m <sup>2</sup>	2.74m <sup>2</sup>
WC (first floor)	2.81m <sup>2</sup>	1.17m <sup>2</sup>
Utility room (ground floor)	2.79m <sup>2</sup>	Unrequired/additional

**Table 1** - HMO SPD (Oct 2019) compliance

8.11 The kitchen/dining area just meets the minimum size standard for the proposed use, but there is a separate living room. These areas together, totals the communal space within the property at 39.55m<sup>2</sup>, and there is a ground floor utility room also. All of the bedrooms accord with the standards as set out within the HMO SPD (October 2019) and 'The Standards for Houses in Multiple Occupation' document dated September 2018. Furthermore, all habitable rooms would have good access to natural light.

8.14 Impact on neighbouring living conditions

8.15 In terms of the impact on the living conditions of the adjoining occupiers, it is considered that the level of activity that could be associated with the use of any individual property either as a dwellinghouse (Class C3) which involves occupation by a single family, would

be unlikely to be significantly different from the occupation of the property by between 3 and 6 unrelated persons as a house in multiple occupation.

- 8.16 The HMO SPD is supported by an assessment of the need for, and supply of, shared housing in Portsmouth and of the impacts of high concentrations of HMOs on local communities. Paragraphs 9.1-9.10 discuss the negative impacts of HMO concentrations on local communities and points to the cumulative environmental effects of HMO concentrations. However, given that there is not an over-concentration of HMOs within the surrounding area, it is considered that the impact of one further HMO would not be significantly harmful.
- 8.17 Concerns have been raised in the representations regarding a potential increase in crime and anti-social behaviour as a result of the proposed change of use. However, the Council does not have any evidence to suggest that HMOs result in higher levels of crime or anti-social behaviour than a Class C3 dwellinghouse.
- 8.18 In terms of the impact on the living conditions of the adjoining occupiers, it is considered that the level of activity that could be associated with the use of any individual property as a dwellinghouse (Class C3), would not be significantly different from the occupation of the property by between 3 and 6 unrelated persons as a house in multiple occupation.
- 8.19 Through the occupants possibly not acting as a collective and therefore cooking meals and carrying out other activities on an individual basis, it could be regarded that general activity could increase with more coming and goings to the site and within the site. However, the proposal would not result in an overconcentration of HMOs within the surrounding area, and therefore it is considered that the impact of one further HMO (bringing the total to three within a 50m radius) would not have any demonstrable adverse impact to wider amenity.
- 8.20 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.
- 8.21 Highways/Parking
- 8.22 The City Council's Parking Standards SPD sets the level of off-road parking facilities for new developments within the city and places a requirement of 2 off-road spaces for Class C4 HMOs with four or more bedrooms. However, it should be noted that the expected level of parking demand for a Class C3 dwellinghouse with four or more bedrooms would also be 2 off-road spaces, and these bedrooms could be achieved by permitted development without any planning control on parking. The expected level of parking demand for a Class C3 dwellinghouse with three bedrooms (as existing) is 1.5 off-road spaces. The property has no off-street parking.
- 8.23 The C4 element of the proposal compared to the existing property only expects an extra half a parking space. As the level of occupation associated with a HMO is not considered to be significantly greater than the occupation of the property as a Class C3 dwellinghouse, it is considered that an objection on either highway safety grounds, or car parking standards, could not be sustained on appeal. It should be noted that the property could be occupied by a large family and/or with adult children, each potentially owning a separate vehicle.
- 8.24 The Council's Adopted Parking Standards set out a requirement for C4 HMOs to provide space for the storage of at least 4 bicycles. The property has a rear garden where secure

cycle storage could be located. The requirement for cycle storage is recommended to be secured by condition.

8.25 Waste

8.26 The storage of refuse and recyclable materials would remain unchanged, being located in the forecourt area, and an objection on waste grounds would not form a sustainable reason for refusal.

8.27 Impact on Special Protection Areas

8.28 Whilst it is acknowledged that there are ongoing issues around the nitrification of the Solent due to increased levels of runoff from residential development, this application is for the change of use of the property from C3 (dwellinghouse) to a flexible C3/C4 use (both would allow up to 6 people), and as such it is not considered to represent an increase in overnight stays. The development would therefore not have a likely significant effect on the Solent Special Protection Areas or result in an increased level of nitrate discharge.

8.29 Community Infrastructure Levy (CIL)

8.30 The development would not be CIL liable as there would be no increase in the Gross Internal Area of the application property.

8.31 Human Rights and the Public Sector Equality Duty ("PSED")

8.32 The Council is required by the Human Rights Act 1998 to act in a way that is compatible with the European Convention on Human Rights. Virtually all planning applications engage the right to the enjoyment of property and the right to a fair hearing. Indeed, many applications engage the right to respect for private and family life where residential property is affected. Other convention rights may also be engaged. It is important to note that many convention rights are qualified rights, meaning that they are not absolute rights and must be balanced against competing interests as permitted by law. This report seeks such a balance.

8.33 Under section 149 of the Equality Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Further the Council must advance equality of opportunity and foster good relation between those who share a relevant protected characteristic and those who do not. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Having had due regard to the public sector equality duty as it applies to those with protected characteristics in the context of this application, it is not considered that the officer's recommendation would breach the Council's obligations under the Equality Act 2010.

8.34 Other Matters raised in the representations.

8.35 Concerns have been raised by neighbouring residents regarding the pressure the use would put on local services. However, having regard again to the existing lawful use of the property as a self-contained dwellinghouse, it is considered the use of the property would not have a significantly greater impact on local services than the existing use which could be occupied by a similar number of occupants.

- 8.36 While noise from construction work may have an impact on the amenity of neighbours, this is an unavoidable consequence of building work and is not a sufficient reason to withhold Planning Permission. Further work commencing prior to a Permission being granted is not uncommon and is done at the Applicant's own risk.
- 8.67 As mentioned above the rear dormer and rear extension accords with Permitted Development and therefore the Local Planning Authority cannot give consideration towards the impact of the built form on the neighbour amenity.

## **9.0 CONCLUSION**

- 9.1 Having regard to all material planning considerations and representations it is concluded that the proposed change of use is acceptable and would be in accordance with the relevant policies of the Portsmouth Plan (2012) and the objectives of the National Planning Policy Framework (NPPF) (2021).

### **RECOMMENDATION                      Conditional Permission**

#### **Conditions**

##### **Time Limit:**

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990

##### **Approved Plans:**

- 2) Unless otherwise agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: PG.8059 · 23 · 2 - Location Plan; PG.8059 · 23 · 1 - Dual Use Plans; and PG.8059 · 23 · 5 - Existing and Proposed Elevations.

Reason: To ensure the development is implemented in accordance with the permission granted.

##### **Cycle Storage:**

- 3) Prior to first occupation of the property as a House in Multiple Occupation within Use Class C4, secure and weatherproof bicycle storage facilities for 4 bicycles shall be provided at the site and shall thereafter be retained for the parking of bicycles at all times.

Reason: To ensure that adequate provision is made for cyclists using the premises in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.

#### **Informatives:**

- a) 2 x 360 litre bins are required for a 6 bed HMO. The applicant will need to purchase these bins directly from Portsmouth City Council Waste Management prior to the tenants moving in.

- b) The dual Use Classes C3/C4 (dwellinghouses/3-6 person HMO) hereby permitted allows the property to be used for either use interchangeably, overcoming the need for a new planning permission each time a material change of use from Class C3 to C4 occurs. It should be noted that 10 years from the date of this permission, the flexibility currently afforded by Schedule 2, Part 3, Class V of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ceases and the use of the property at that time becomes the singular lawful use.

Should you wish the property to continue to be used as a dual Class C3/C4 use after the 10-year period, you would need to make a further planning application.

Please inform the local planning authority of the use of the property applicable at the expiry of the 10-year period.

- c) Please be aware that an HMO license may be required. HMO licenses are assessed against new standards that may differ to those used in the Planning process and you are therefore advised to check the licensing requirements and standards prior to occupation. For more information, and to find out about our landlord accreditation scheme please contact the City Council's Private Sector Housing Team using the details below:

Email: [housing.privatesector@portsmouthcc.gov.uk](mailto:housing.privatesector@portsmouthcc.gov.uk)

Postal address: Private Sector Housing, Portsmouth City Council, Civic offices, Guildhall Square, Portsmouth, PO1 2AZ.

Phone Number: 023 9284 1659

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# Agenda Item 7

23/00499/FUL

WARD:HILSEA

2 Mayfield Road Portsmouth PO2 0RW

**Change of use from dwellinghouse (Class C3) to 7-bed/7-person House in Multiple Occupation**

<https://publicaccess.portsmouth.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RTEUSOMOIB000>

**Application Submitted By:**

Mrs Carianne Wells  
Applecore PDM Ltd

**On behalf of:**

Mr Reynolds  
CER Property Ltd

**RDD:** 20<sup>th</sup> April 2023

**LDD:** 15<sup>th</sup> June 2023

## 1.0 SUMMARY OF MAIN ISSUES

- 1.1 Cllr Daniel Wemyss and Cllr Strudwick have requested the application be heard at Planning Committee over concerns surrounding the sewage system being congested and the impact on parking provision.
- 1.2 This application has attracted a total of 34 objections from local residents.
- 1.3 The main issues for consideration in the determination of the application are considered to be as follows:
  - The principle of development;
  - Standard of accommodation;
  - Parking;
  - Waste;
  - Amenity impacts upon neighbouring residents; and
  - Any other raised matters.

## 2.0 SITE AND SURROUNDINGS

- 2.1 The application relates to a two-storey, end-terraced dwellinghouse (Class C3) located on the southern side of Mayfield Road, with London Road situated to the west. The existing dwellinghouse is served by bay windows to the front over two floors and has a small forecourt and canopy at the front of the property. The dwelling currently has a moderate, linear rear garden which shares a boundary with the gardens of properties on Thurbern Road. The existing layout comprises a lounge/dining, w/c , wet room and kitchen/dining at ground floor and 3 bedrooms and a bathroom at first floor.
- 2.2 The application site falls within a residential area characterised by rows of two-storey terraced properties with many shops and amenities nearby. There are bus stops for both directions in close proximity on London Road.

### 3.0 THE PROPOSAL

3.1 Planning permission is sought for the Change of use from dwellinghouse (Class C3) to House in Multiple Occupation for seven people.

3.2 The proposed internal accommodation, as shown in the below proposed floorplans comprises the following:

- Ground Floor - 2 bedrooms with ensuites, kitchen/dining area and WC;
- First Floor - 3 bedrooms with ensuites and a tank room; and
- Second Floor - 2 bedrooms with ensuites.



3.3 The Applicant has stated that works to extend the property are to be undertaken under permitted development. These works include a single storey rear extension and rear roof dormers, and are not included in the application. They should not be considered as part of the application but may be necessary to meet the space standards required for the proposed use. Should the applicant wish, these works could, and likely would, go ahead with or without consent for the change of use being considered under this application. It is suggested that it would be prudent to impose a pre-occupation condition should the committee be minded to grant permission requiring that the permitted development works take place prior to the property's occupation as a HMO for 7 persons.

### 4.0 PLANNING HISTORY

4.1 **A\*30979/AA** - Conversion to form 2 flats - Conditional Approval - 24/07/2003

### 5.0 POLICY CONTEXT



### 5.1 Portsmouth Plan (2012)

5.2 In addition to the aims and objectives of the National Planning Policy Framework (2021), due weight has been given to the relevant policies within the Portsmouth Plan (2012), which include:

- PCS17 (Transport)
- PCS20 (Houses in Multiple Occupation)
- PCS23 (Design and Conservation).

### 5.3 Other Guidance

5.4 Guidance for the assessment of applications that is relevant to the application includes:

- National Planning Practice Guidance (revised 2021)
- The Parking Standards and Transport Assessments Supplementary Planning Document (2014)
- The Solent Recreation Mitigation Strategy (2017)
- The Updated Interim Nutrient Neutral Mitigation Strategy (2022)
- The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD').

## 6.0 CONSULTATIONS

6.1 Private Sector Housing - Based on the layout and sizes provided this property would require to be licenced under Part 2, Housing Act 2004. It will need to be inspected by private sector housing to ensure it meets their licensing requirements.

6.2 Highways Engineer - no objection subject to the imposition of condition relating to position of cycle storage. The response detailed that Mayfield Road is a residential road with parking accommodated through unrestricted on street parking with some properties having the benefit of off street parking. The demand for parking on street appears high.

No traffic assessment has been provided however given the small scale of the development, I am satisfied that the proposal would not have a material impact upon the function of local highway network.

The Parking Standards SPD places a requirement of 2 off-road spaces for Sui Generis HMOs with four or more bedrooms. The expected level of parking demand for a Class C3 dwellinghouse with three bedrooms would be for 1.5 off-road spaces, a difference of 0.5 spaces.

No parking survey information has been submitted to demonstrate on street capacity if additional demand resulting from the development needs to be accommodated within a 200m walking distance of the site. Therefore, there is the potential for increased instances of residents driving around the area hunting for a parking space, although this is an issue of residential amenity.

## 7.0 REPRESENTATIONS

7.1 34 representations have been received objecting to the proposed development, including one from Councillor Wemyss.

7.2 The above representations of objection have raised the following concerns:

- a) Lack of car parking provision leading to an increase in traffic and exacerbation of existing on-street parking problems. School, Dance School, & other businesses already operate without designated parking
- b) Strain on water supply and sewers
- c) There are already too many HMOs in the area
- d) Residents of this type of accommodation rarely assimilate into the wider area
- e) The HMO use will negatively affect the value of the neighbours houses
- f) The road is also not suitable for HGVs (signposted on street), already presenting difficulties for building work to be undertaken, without causing major disruption
- g) Increased amount of rubbish produced by a HMO.
- h) if approved, it could lead to possible further planning being granted, for continued expansions, with no end to how far it could go, impacting the affluent area.
- i) The introduction of a HMO runs the risk of increased anti-social behaviour in the area, with unwanted associations to drugs, and alcohol, supported by there being no mention of the target market stipulated for the HMO property.
- j) The Council really need to get an updated register of all the (illegal) HMOs in Portsmouth
- k) These properties pay the same amount of Council Tax as the local residents but create more issues, rubbish, costs to the community, police call outs, noise pollution, etc. than most of the residential properties of single-dwelling
- l) The Applicant states this property is his address, but that is also the case for 15 Shadwell Road and 16 North End Avenue. 15 Shadwell Road is in fact a registered HMO owned by this developer, is this a ploy or incompetence;
- m) There is unfilled student accommodation in the City, would be a much better to house single people there rather than turning family sized properties into HMOs.
- n) Once a developer given the 'green light', concerned they immediately submit an application for extensions, in order to increase their rental income
- o) It is also fair to say that the site is not maintained to a high standard externally, and spoils the ambience of our neighbourhood.
- p) The structure of the property is old, and not built for purpose of HMO.
- q) There is risk of the property falling into disrepair from high demand, and additional construction.
- r) there are already quite a number of people living in this property, and I am assuming that there is some sort of rental agreement between them and the purchaser.
- s) I object to the scale of this development. The applicant is developing the property beyond that allowed by permitted development. The background for this is based on post war rear extension already using these up before the applicant additional extensions. This is based on the block plan provided and the neighbouring properties rear extents.
- t) I have repeatably objected to HMO based on the over intensive use of houses that are so old they are not built to any standards. It puts too much strain on the community and it crams to many people into too small a space to give an acceptable standard of living.

## 8.0 COMMENT

8.1 The main determining issues for this application relate to the following:

- The principle of Development;
- The standard of accommodation;
- Impact upon amenity neighbouring residents;
- Parking;
- Waste; and

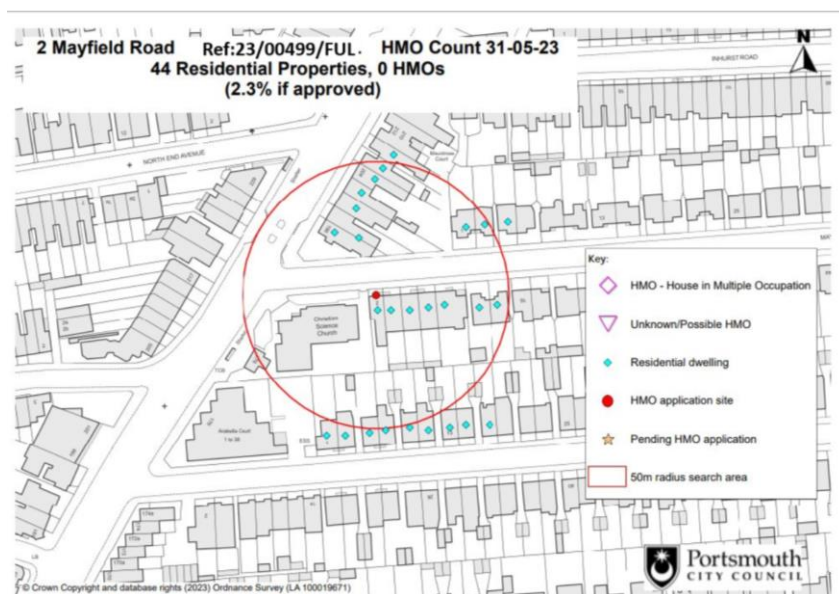
- Any other raised matters

## 8.2 Principle of development

8.3 Permission is sought for the use of the property as a Sui Generis HMO for 7 persons. The property is currently considered to have a lawful use as a self-contained dwelling (Class C3).

8.4 Policy PCS20 of the Portsmouth Plan states that applications for 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. The adopted Houses in Multiple Occupation SPD (as amended October 2019), sets out how Policy PCS20 will be implemented and details how the City Council will apply this policy to all planning applications for HMO uses. The SPD states that a community will be considered to be imbalanced where more than 10% of residential properties within the area surrounding the application site (within a 50m radius) are already in HMO use.

8.6 For reference, the HMO use of 2 Mayfield Road results in 1 HMO uses out of a total of 44 residential properties. This produces a HMO percentage of 2.3% which, falls well below the 10% threshold allowed by PCS20.



8.7 A further policy strand introduced in July 2018, amended in October 2019, seeks to ensure that the amenity and standard of living environment of neighbours and local occupiers is protected. This is explained within Appendix 6 of the HMO SPD, which references the specific proximity of HMOs to adjacent dwellings and how these circumstances may give rise to a particular risk of harm to amenity and disturbance. These are where: the granting of the application would result in three or more HMOs adjacent to each other, or where the granting of the application would result in any residential property being 'sandwiched' between two HMOs. There is no conflict caused by this proposal with this guidance.

8.8 Having regard to the above, the proposal would comply with the aims and objectives of Policies PCS19 and PCS20 of the Portsmouth Plan (2012).

## Five year Housing Land supply.

8.9 The National Planning Policy Framework (NPPF) states that planning decisions should be based on a presumption in favour of sustainable development (paragraph 11). That presumption does not apply where the project is likely to have a significant effect on a 'habitats site' (including Special Protection Areas) unless an appropriate assessment has concluded otherwise (paragraph 182). Where a local planning authority cannot demonstrate a five year housing land supply of deliverable sites, the NPPF deems the adopted policies to be out of date and states that permission should be granted for development unless:

- I. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or
- II. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

8.10 Currently, the Council can demonstrate 2.9 years supply of housing land. The starting point for determination of this application is therefore the fact that the authority cannot demonstrate a five year supply of housing. This development would provide greater occupation of the building, so make an additional contribution towards the City's housing needs, at a sustainable location in the city, with good public transport, retail and services, employment, leisure, health facilities, etc.. These factors weigh in favour of the proposed development. The further, specific impacts of the proposal must still be considered as to whether the development is appropriate in detail, as set out below.

8.11 Standard of accommodation

8.12 The application seeks Sui Generis HMO use for 7 persons and proposes the following room sizes, as shown in **Table 1** below.

Room	Area Provided	Required Standard
Bedroom 1	13.19m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 2	11.77m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 3	18.02m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 4	11.79m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 5	11.70m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 6	13.90m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 7	13.79m <sup>2</sup>	6.51m <sup>2</sup>
Communal Kitchen/Dining area (ground floor)	31.45m <sup>2</sup>	22.5m <sup>2</sup> (as all bedrooms exceed 10m <sup>2</sup> )
Ensuite bathroom 1	3.13m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 2	3.32m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 3	3.19m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 4	3.31m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 5	2.93m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 6	2.87m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 7	3.41m <sup>2</sup>	2.74m <sup>2</sup>

**Table 1** - HMO SPD (Oct 2019) compliance

8.13 All rooms comfortably exceed the required space standards, and the proposal is considered to provide a good standard of living for future occupiers. Even after the construction of the single storey rear extension under Permitted Development, a

reasonable sized garden is provided. While this is not required by policy, it is a clear positive when considering the amenity of future occupiers.

8.14 Impact on neighbouring living conditions

8.15 In terms of the impact on the living conditions of the adjoining occupiers, it is considered that the level of activity that could be associated with the use of any individual property as a dwellinghouse in Class C3, would be unlikely to be significantly different from the occupation of the as a house in multiple occupation.

8.16 The HMO SPD is supported by an assessment of the need for, and supply of, shared housing in Portsmouth and of the impacts of high concentrations of HMOs on local communities. Paragraphs 9.1-9.10 discuss the negative impacts of HMO concentrations on local communities and points to the cumulative environmental effects of HMO concentrations. However, given that there is not an over-concentration of HMOs within the surrounding area, it is considered that the impact of one HMO would not be significantly harmful, nor would the increase in occupants.

8.17 Given the realistic increase in number of occupants as a material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.

8.18 Highways/Parking

8.19 The City Council's Parking Standards SPD has a difference of 0.5 car parking spaces between the existing and proposed use. The proposal has no off-street parking, which is no change from the current use. The difference of 0.5 spaces is not a quantum that warrants a reason for refusal, given the proximity to public transport and other facilities. There is no objection on either highway safety grounds and therefore refusal could not be sustained on appeal. It should be noted that the property could be occupied by a large family and/or with adult children, each potentially owning a separate vehicle, or even more than 1 vehicle each.

8.20 The Parking Standards set out a requirement for 7 person HMOs to provide space for the storage of at least 4 bicycles. A covered cycle store is proposed to the rear of the property, to accommodate 4 bicycles. This may be secured by condition.

8.21 Impact on Special Protection Areas

8.22 As there is a measurable increase in occupancy from an assumed 2.4 persons (for a C3 dwelling) to 7 persons, mitigation for increased Nitrate and Phosphate Output into the Solent and Recreational Disturbance to the SPA is required. This can be secured through a s.111 agreement.

8.23 Waste

8.24 The storage of refuse and recyclable materials can be accommodated in the front forecourt. It is not considered necessary to require details of formalised waste storage.

8.25 Human Rights and the Public Sector Equality Duty ("PSED")

8.26 The Council is required by the Human Rights Act 1998 to act in a way that is compatible with the European Convention on Human Rights. Virtually all planning applications engage the right to the enjoyment of property and the right to a fair hearing. Indeed,

many applications engage the right to respect for private and family life where residential property is affected. Other convention rights may also be engaged. It is important to note that many convention rights are qualified rights, meaning that they are not absolute rights and must be balanced against competing interests as permitted by law. This report seeks such a balance.

- 8.27 Under section 149 of the Equality Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Further the Council must advance equality of opportunity and foster good relation between those who share a relevant protected characteristic and those who do not. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Having had due regard to the public sector equality duty as it applies to those with protected characteristics in the context of this application, it is not considered that the officer's recommendation would breach the Council's obligations under the Equality Act 2010.
- 8.29 Other Matters raised in the representations but not yet addressed in this report
- 8.29 Members will be able to identify that the majority of issues raised in the objections are not material planning issues. For summary and completeness, these points, these concerns, where founded, will be covered by other Council Departments such as HMO Licensing/Private Sector Housing, Building Control and Waste. Issues can be dealt with as and when they arise by those departments, and in any cases where illegal activity is involved, as has been suggested will be the case by some objectors, neighbours should contact the Police.
- 8.30 Many comments raise concerns over the impact of the PD works. These works are not included in this application and are beyond the control of the Local Planning Authority. These works could be implemented without the need to apply for permission under the current C3 use or the allowed C4 use. Also, comments that the developer plans to further extend the property have been received. If the applicant wishes to further extend the property they will need to go through the relevant planning process which will require any application to send neighbour notifications and go through the assessment process. Until that time it can not be given consideration.
- 8.31 Some comments object due to the apparent poor quality of living for future occupiers and the high number of HMOs already in the area. Both of these objections are considered to be unfounded because the proposal is found to comply with both policies PCS20 and PCS23 of the Portsmouth Plan. As per the map detailed above, this is the only HMO in the area currently.
- 8.32 One objector raises concerns regarding the type and number of people staying in the property. The application is for 7 persons and this would be monitored and controlled through the licensing regime. However, members may consider imposing an occupancy condition.
- 8.33 A representation received details that due to the age of the property involved, they are not built to any standards. In terms of the overall safety of the property, this is primarily a Building Standards issue which will be required to be gone through. In terms of Planning, all rooms are larger than the sizes required by the National Space Standards, some significantly so. It is therefore considered that the point raised is not accurate.

- 8.34 Comments detailing there are more appropriate uses for properties, rather than HMO's, have also been received. Other objections detail that HMO'S should be directed to other areas or that unfilled student accommodation should be used rather than creating further HMO's. Ultimately, it is considered and has been demonstrated that there is not an oversupply of HMO's in this location, it is considered this type of use in a predominantly residential area is appropriate and that every application has to be considered on its own merits considering the property type, surrounding area, currently property uses etc. In this case it has been demonstrated there would be a neutral planning impact on the immediate locale as a result of this permission.

## **9.0 CONCLUSION**

- 9.1 Having regard to all material planning considerations, giving significant weight to the fallback position available to applicant of implementing the previous permission for a 6 person HMO, and representations received, it is concluded that the proposed change of use is acceptable and would be in accordance with the relevant policies of the Portsmouth Plan (2012) and the objectives of the National Planning Policy Framework (NPPF) (2021).

**RECOMMENDATION I** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to:

- (a) Receipt of 'no objection' from Natural England concerning the SPA Mitigation, and;
- (b) satisfactory completion of a Legal Agreement necessary to secure the mitigation of the impact of the proposed residential development on Solent Special Protection Areas (recreational disturbance and nitrates) by securing the payment of a financial contribution.

**RECOMMENDATION II** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary.

**RECOMMENDATION III** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to refuse planning permission if a Legal Agreement has not been satisfactorily completed within three months of the date of this resolution.

### **Conditions**

#### **Time Limit:**

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990

#### **Approved Plans:**

- 2) Unless otherwise agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers , received 20<sup>th</sup> April 2023: " LOCATION PLAN 1-1250 TQRQM23053152137399" , " SITE PLAN 1500 TQRQM23110094347981"

Reason: To ensure the development is implemented in accordance with the permission granted.

**Cycle Storage:**

- 3) Prior to first occupation of the property as a House in Multiple Occupation, secure and weatherproof bicycle storage facilities for 4 bicycles shall be provided at the site and shall thereafter be retained for the parking of bicycles at all times.

Reason: To ensure that adequate provision is made for cyclists using the premises in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.

**PD Works**

- 4) Prior to the occupation of the property as a HMO for 7 persons, the single storey rear extension and roof alterations proposed to be constructed under permitted development allowances shall be completed.

Reason: In order to ensure that the property meets the required space standards and therefore provides a good standard of living in accordance with Policy PCS23 of the Portsmouth Plan.



# Agenda Item 8

22/01667/FUL

WARD:HILSEA

152-154 LONDON ROAD HILSEA PORTSMOUTH PO2 9DJ

**CHANGE OF USE FROM CLASS E OFFICES TO 13 BEDROOM HOUSE IN MULTIPLE OCCUPATION (SUI GENERIS), WITH ASSOCIATED WORKS TO INCLUDE ALTERATIONS TO THE FRONTAGE, FENESTRATION CHANGES AND THE CONSTRUCTION OF FRONT AND REAR DORMERS (RESUBMISSION OF 22/00338/FUL)**

**LINK TO ONLINE DOCUMENTS:**

[22/01667/FUL | Change of Use from Class E offices to 13 bedroom House in Multiple Occupation \(Sui Generis\), with associated works to include alterations to the frontage, fenestration changes and the construction of front and rear dormers \(resubmission of 22/00338/FUL\) | 152-154 London Road Hilsea Portsmouth PO2 9DJ](#)

**Application Submitted By:**

Mrs Carianne Wells  
Applecore PDM Ltd

**On behalf of:**

Mr Smith  
Scott Baker Properties

**RDD:** 2nd December 2022

**LDD:** 30th January 2023

## **1.0 SUMMARY OF MAIN ISSUES**

- 1.1 The application is being presented to the Planning Committee due to the number of objections received (eight) and 2 councillor call-in requests: Cllr Wemyss on the basis that the scale of development would impact on neighbours' right to privacy and put a strain on the sewerage system in the area, and Cllr Payter-Harris on the basis that the proposal is grossly over-developed and the scheme is as bad as the previously rejected application.
- 1.2 The main issues for consideration in the determination of the application are as follows:
  - Principle
  - Design
  - Impact on neighbour amenities
  - Parking
  - Impact on Special Protection Areas
  - Other material considerations
- 1.3 Site and surroundings
- 1.4 The site is currently vacant having been last used as the operational offices for a home care service, a use which is now likely to fall under Class E (commercial, business and service uses) of the 2020 Use Classes Order.
- 1.5 The site lies within the secondary area of North End District Centre (Policy PCS8 of the Portsmouth Plan applies).
- 1.6 Residential uses are immediately adjacent and to the rear (fronting Montague Road).
- 1.7 Proposal

1.8 The application seeks planning permission for the change of use from Class E offices to a 13 bedroom House in Multiple Occupation (Sui Generis), with associated works to include alterations to the frontage, fenestration changes and the construction of front and rear dormers. The application is a resubmission following the refusal of an earlier application for a 16 bedroom house in multiple occupation under ref: of 22/00338/FUL.

1.9 The revised application seeks to address the reasons for refusal in the following ways:

- Reduction in the number of bedrooms from 16 to 13
- Significantly reduced length of the rear dormer
- Amendments to the internal layout
- Obscure glazing in places to reduce direct overlooking
- Alterations to the internal courtyard layout, including a covered outside seating area at the eastern end
- Improved elevational treatment fronting London Road
- Relocated recycling/waste bin storage to front within building.

#### 1.10 Relevant Planning History

1.11 22/00338/FUL - Change of use from professional service unit to 16 bedroom house in multiple occupation (sui generis), to include associated alterations to frontage, and construction of single storey extension to rear and dormers to front and rear roofslopes - Refused dated 30/9/22 for the following reasons:

1. The proposed development by reason of its cramped layout, excessive roof additions to the rear and intensive use of the site would not result in a good standard of living environment for future occupiers of the development due to poor outlook and available light, an unacceptable sense of enclosure, and excessive noise, disturbance and loss of privacy for bedrooms in relation to other bedrooms and the proposed amenity space, cycle and bin storage. The proposal is therefore contrary to Policy PCS23 of the Portsmouth Plan and the aims and objectives of the National Planning Policy Framework (July 2021).

2. The proposed second floor rear dormer is considered a visually top heavy and bulky addition, resulting in an incongruous feature within the area, out of character with surrounding development. As such it is considered contrary to Policy PCS23 of the Portsmouth Plan and the aims and objectives of the National Planning Policy Framework (July 2021).

3. Provision for the collection of refuse and recycling is not considered satisfactory and would result in an unacceptable impact on the amenity of neighbouring occupiers and a potential hazard to pedestrians and users of the adjacent parking court. As such the proposal is considered contrary to policy PCS23 of the Portsmouth Plan and the aims and objectives of the National Planning Policy Framework (July 2021).

4. It has been identified that any residential development in the city will result in a significant effect on the Solent Special Protection Areas, through additional recreational pressures and nutrient output, with mitigation against these impacts being required. No justification or mitigation measures have been secured and, until such time as this has been provided, the proposal would have a significant detrimental impact on the Special Protection Areas, contrary to Policy PCS13 of The Portsmouth Plan (2012), the Conservation of Habitats and Species Regulations (as amended after 2017), the Wildlife and Countryside Act (1981), and Section 15 of the National Planning Policy Framework (2021).

1.12 A\*22942/N - Alterations/new shop front/change of use from shop to estate agent office - permitted 3/12/75

1.13 A\*22942/P - 2 storey rear extension to existing offices - conditional permission 28/1/76

## 2.0 POLICY CONTEXT

- 2.1 In addition to the aims and objectives of the National Planning Policy Framework (2021), the relevant policies within the Portsmouth Plan (2012) would include: PCS8 (District Centre), PCS17 (Transport), PCS20 (Houses in Multiple Occupation and PCS23 (Design and Conservation).
- 2.2 Guidance for the assessment of applications that is relevant to the application includes The Parking Standards and Transport Assessments Supplementary Planning Document (2014), The Technical Housing Standards - nationally described space standards (2015), The Solent Recreation Mitigation Strategy (2017), The Updated Interim Nutrient Neutral Mitigation Strategy (2022), and The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD').

## 3.0 CONSULTATIONS

- 3.1 Private Sector Housing: The City Council Private Sector Housing team advise that this property would require to be licenced under Part 2, Housing Act 2004.
- 3.2 Waste Management Service - amended storage arrangements (received 25/4/23) for refuse/recycling are now considered satisfactory.
- 3.3 Highways Engineer

London Road is a classified road the A2047 and is an important North-South route forming part of Portsmouth's primary road network. It is a single carriageway subject to a 30mph limit and is a main bus route and part of an identified Bus Rapid Transit (BRT) corridor. Few of the properties in the immediate vicinity have off street parking provision and as a consequence the demand for parking by local residents often exceeds the capacity to accommodate this on street particularly overnight and at weekends. London Road is not located in that part of the city found to be sufficiently accessible in the parking SPD as to allow the consideration of a reduction in the residential parking expectation.

No traffic assessment has been provided however given the small scale of the development, it is considered that the proposal would not have a material impact on the local highway network.

The Parking SPD does not consider HMOs of this scale explicitly, rather is concerned with the change of use of more typical residential dwellings to HMOs and as a consequence determines a parking requirement for HMOs equivalent to that of a large residential dwelling. If interpreted literally the SPD only requires a maximum of 2 vehicle parking spaces and 4 cycle spaces for HMOs irrespective of their capacity. This is broadly equivalent to 1 space per room consistent with that expectation for a 1 bedroom flat. It is considered that a parking requirement of 0.5 spaces per room would be a reasonable expectation for HMOs of this scale. This compares with no vehicle parking proposed and 6 cycle parking spaces provided within the rear courtyard.

No parking survey information has been submitted to demonstrate on street capacity to accommodate this shortfall within a 200m walking distance. The parking demand associated with the office use will be removed, this was typically likely to occur during the day, when the demand for on street parking is likely to be minimal. However the proposal will increase the residents parking demand overnight and at weekends when the demand for parking exceeds the space available on street.

Consequently not only does this proposal not provide parking provision for the reasonable expectation of demand (say 8 spaces), it is also not compliant with the literal interpretation of the policy established in the SPD, which requires only 2 spaces. This will increase the local parking demand making it more inconvenient for local residents to find a place to park with the consequent implications for residential amenity.

This is likely to result in increased instances of residents driving around the area hunting for a parking space and choosing to park where parking is restricted at junctions obstructing visibility and increasing the risks of accidents and this should be given due weight in the determination of the application.

If minded to approve the application, a condition is requested for final details of secure cycle storage provided to the LHA and thereby implemented prior to occupation.

3.4 Regulatory Services: area of mixed residential and commercial premises at both ground floor and first floor level, so no outright objections. Owing to proximity to London Road, request noise control condition for facing habitable rooms.

3.5 Contaminated Land - Given the limited scope of works, a condition relating to land contamination is not required. However, the property is near a former coal and fuel oil distributor, and as such there is the potential for contamination to be present, an informative should be added.

#### **4.0 REPRESENTATIONS**

4.1 Eight objection letters have been received on the following grounds:

- a) 13 bedrooms is still excessive; does not address previous refusal.
- b) No parking provision - parking availability within existing residential roads (particularly Montague Road and Kirby Road) is already under significant pressure; often have to circle to find a space, concern about air pollution as a result; proposal will aggravate existing dire situation; question whether intended 'professional' occupants would cycle rather than rely on a car.
- c) Accommodation offers low standard of living - query whether bedrooms meet size standards; some bedrooms lack en-suites, one is adjacent the bin store; communal area would be in shadow much of the day.
- d) Rear access path from Montague Road too narrow for cycles; path not in ownership of applicant - only for emergency access right of way - use for any other purpose would detract from quiet enjoyment of neighbouring property at no.1.
- e) Use of rear outside space by 13 residents plus guests would cause unacceptable noise and disturbance to nearby properties and their gardens in Montague Road.
- f) Object to 2<sup>nd</sup> floor dormers which are imposing and would overlook many gardens in Montague Road.
- g) Bin storage at front looks excessive; too many bins on pavement on collection day - concern about blocking access and overflowing.
- h) Too many HMO's in area already; many buildings in area converted to residential; no.6 Montague Road is an HMO.
- i) Increased pressure on sewer system.
- j) Increased pressure on public services such as local health services.
- k) Disruption during construction period.

#### **5.0 COMMENT**

The main issues to consider in the determination of this application is whether the proposal is acceptable in principle.

##### 5.1 Principle

Five year Housing Land supply.

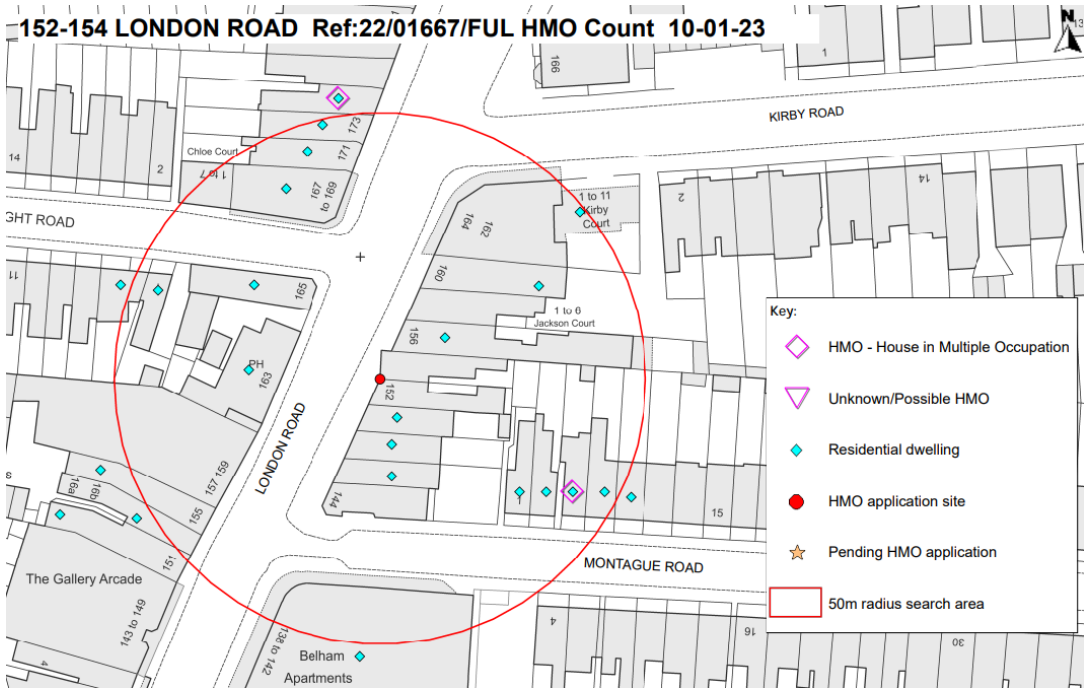
5.2 The National Planning Policy Framework (NPPF) states that planning decisions should be based on a presumption in favour of sustainable development (paragraph 11). That presumption does not apply where the project is likely to have a significant effect on a 'habitats site' (including Special Protection Areas) unless an appropriate assessment has concluded otherwise (paragraph 182). Where a local planning authority cannot

demonstrate a five year housing land supply of deliverable sites, the NPPF deems the adopted policies to be out of date and states that permission should be granted for development unless:

- I. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or
  - II. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 5.3 Currently, the Council can demonstrate 2.9 years supply of housing land. The starting point for determination of this application is therefore the fact that the authority cannot demonstrate a five year supply of housing. This development would provide greater occupation of the building, so make an additional contribution towards the City's housing needs, at a sustainable location in the city, with good public transport, retail and services, employment, leisure, health facilities, etc.. These factors weigh in favour of the proposed development. The further, specific impacts of the proposal must still be considered as to whether the development is appropriate in detail, as set out below.

#### HMO Policy

- 5.4 The application site is situated within the secondary area of North End District Centre (Policy PCS8 applies) where the loss of upper floor office use is generally resisted, yet residential use is also supported. It is understood 'Mayfair Homecare' used the ground floor as offices and upstairs was predominantly ancillary storage. The loss of the upper floor use to residential use is not considered harmful to the overall aims and objectives of Policy PCS8. Residential use at ground floor level is acceptable under the policy PCS8 as the site lies within the secondary area.
- 5.5 Policy PCS20 of the Portsmouth Plan states that applications for 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. The adopted Houses in Multiple Occupation SPD (as amended October 2019), sets out how Policy PCS20 will be implemented and details how the City Council will apply this policy to all planning applications for HMO uses. The SPD states that a community will be considered to be imbalanced where more than 10% of residential properties within the area surrounding the application site (within a 50m radius) are already in HMO use.
- 5.6 There are 2 known HMO's in the 50m search area of 88 properties (175 London Road - a Class C4 HMO permitted under 17/01297/FUL, and 5 Montague Road - a Class C3/C4 HMO permitted under 15/01916/FUL). Whilst representations have referred to the HMO at no.6 Montague Road (a Class C4 HMO permitted under 14/01525/FUL), this property is outside the search area for the purposes of the HMO calculations. Therefore, there are currently 2.27% of residential properties known to be in HMO use at present, rising to 3.4% if this application were permitted. This is well below the 10% threshold set out in Policy PCS20.



5.7 The HMO SPD also describes a number of circumstances where new HMOs are considered not desirable, such as where they 'sandwich' single household dwellings between HMOs or create a number of HMOs next to each other. This proposal does not result in either of these circumstances occurring.

5.8 Design - layout/room sizes

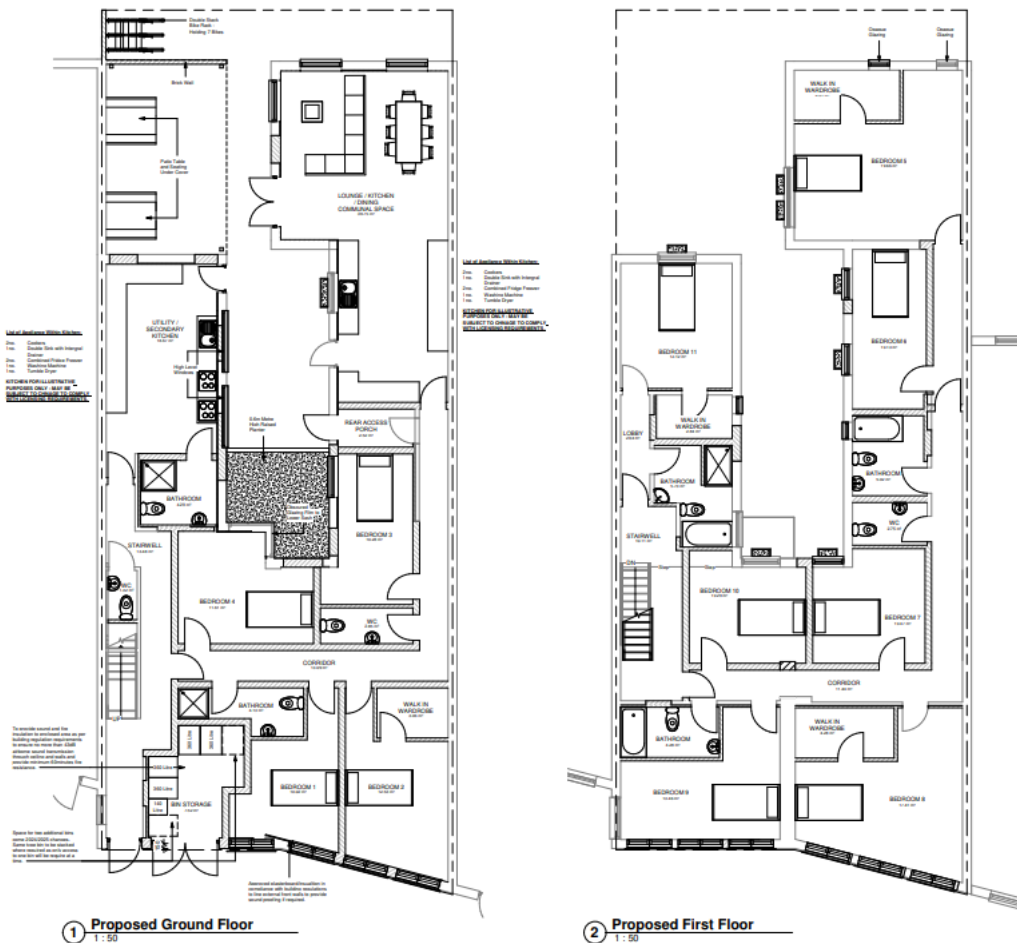
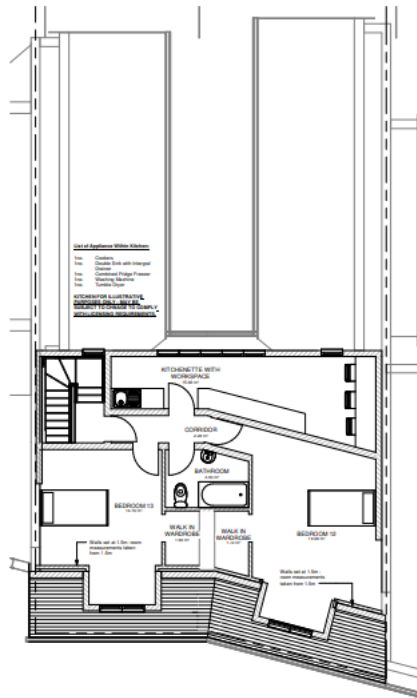


Figure 1 - Proposed Ground and First Floor Plans



1 Proposed Second Floor  
1:50

**Figure 2 - Proposed Second Floor Plan**

- 5.9 The communal facilities are provided in three areas - two on the ground floor (39.75m<sup>2</sup> and 18.67m<sup>2</sup>) and one on the second floor (15.06m<sup>2</sup>) with a combined floorspace of 73.48m<sup>2</sup>. All bedrooms would be over 10m<sup>2</sup> and the property would not provide a separate living space (it being combined with the kitchen and dining space on the ground floor). Therefore, with reference to the HMO SPD - the minimum requirement of combined living space for 6 or more persons is 22.5m<sup>2</sup>. This is achieved by just one of the communal spaces, that being the lounge/kitchen/diner on the ground floor at 39.75m<sup>2</sup>. In addition there are two further shared kitchen/utility facilities available to residents.
- 5.10 Under the current proposal the following room sizes would be provided, as compared to the minimum size prescribed in the Council's adopted guidance:

Room	Area Provided:	Required Standard:
Bedroom 1	10.02m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 2	12.53m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 2 built in wardrobe	3.06m <sup>2</sup>	No standard
Bedroom 3	10.28m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 4	11.61m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 5	19.66m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 5 built in wardrobe	4.57m <sup>2</sup>	No standard
Bedroom 6	10.13m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 7	10.47m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 8	17.41m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 8 built in wardrobe	4.28m <sup>2</sup>	No standard
Bedroom 9	13.46m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 10	10.29m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 11	12.12m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 11 built in wardrobe	2.84m <sup>2</sup>	No standard

Bedroom 12	19.08m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 12 built in wardrobe	1.72m <sup>2</sup>	No standard
Bedroom 13	14.10m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 13 built in wardrobe	1.60m <sup>2</sup>	No standard
GF shower room	4.13m <sup>2</sup>	2.74m <sup>2</sup>
GF shower room	4.29m <sup>2</sup>	2.74m <sup>2</sup>
GF WC	2.85m <sup>2</sup>	1.17m <sup>2</sup>
GF WC	1.32m <sup>2</sup>	1.17m <sup>2</sup>
FF bathroom	4.28m <sup>2</sup>	3.74m <sup>2</sup>
FF bathroom	5.73m <sup>2</sup>	3.74m <sup>2</sup>
FF bathroom	5.02m <sup>2</sup>	3.74m <sup>2</sup>
FF WC	2.75m <sup>2</sup>	1.17m <sup>2</sup>
SF bathroom	3.93m <sup>2</sup>	3.74m <sup>2</sup>
GF Combined Living Space	39.75m <sup>2</sup>	22.5m <sup>2</sup> (as all bedrooms >10m <sup>2</sup> )
GF utility/secondary kitchen	18.67m <sup>2</sup>	Not required
SF kitchenette	15.06m <sup>2</sup>	Not required

- 5.10 As is shown in the table above, the proposal results in an internal layout that meets the Council's adopted space standards and is therefore considered to result in a satisfactory standard of living environment. (The requirement for an 11-15 person HMO is 3 bathrooms and 3 separate WC's - the proposal would provide 6 bathrooms/shower rooms - all with WC's - and 3 separate WC's).
- 5.11 The bedrooms are a variety of sizes but all are considered to have adequate outlook and light, although some of those facing directly into the inner courtyard have more limited outlook than others.
- 5.12 Design - external alterations
- 5.13 The proposed dormers to the front and rear, and the alterations to the front elevation are considered acceptable in scale, materials and overall design in terms of both the recipient building, the street scene and the wider area.
- 5.14 The existing access leading to the site from Montague Road, adjacent no.1, is not within the application site and therefore cannot be relied upon to serve the development. The recycling/refuse storage is located within the envelope of the building and accessed direct from London Road. Whilst cycle storage is provided in the open space at the rear of the building, as with the majority of HMO properties within the City, residents would have to wheel bicycles from the front door through the building to the storage facility.
- 5.15 Amenity
- 5.16 It is acknowledged that a 13 bedroom HMO is likely to generate more on-site activity than the former office use, particularly during evenings and weekends and particularly within the outside space at the rear of the building. However, this is not considered likely to cause such noise and disturbance so as to justify refusal.
- 5.17 Given that the proposed rear dormer would be set back well within the site, it would be largely screened from view at ground level within neighbouring gardens to the rear by virtue of the application sites existing rear outriggers. As such it is not considered that any excessive overlooking would result from the rear dormer as proposed.
- 5.18 Parking
- 5.19 The application site does not offer any opportunity for on-site parking. Whilst it is recognised that parking availability within surrounding residential roads is limited, the site fronts London Road which is a main bus route and part of an identified Bus Rapid Transit



(BRT) corridor. Refusal of the application on the lack of parking is not considered justified given its location within a district centre able to provide local shopping and leisure needs on a main bus route into the city centre.

#### 5.20 Impact on Special Protection Areas

5.21 The Conservation of Habitats and Species Regulations 2017 [as amended] and the Wildlife and Countryside Act 1981 place duties on the Council to ensure that the proposed development would not have a significant effect on the interest features for which Portsmouth Harbour is designated as a Special Protection Area, or otherwise affect protected habitats or species. The Portsmouth Plan's Greener Portsmouth Policy (PCS13) sets out how the Council will ensure that the European designated nature conservation sites along the Solent coast will continue to be protected.

5.22 There are two potential impacts resulting from the accommodation proposed as part of this development. The first being potential recreational disturbance around the shorelines of the harbours, and the second being from increased levels of nitrogen and phosphorus entering the Solent water environment.

5.23 Officers have submitted an Appropriate Assessment, dated 26<sup>th</sup> May 2023, to Natural England and its response is awaited at the time of writing the report. The mitigation contribution for the recreation disturbance is £5,759.00 whilst a total of £12,425 is required to ensure nitrate neutrality based on 4.97kg TN/yr. The applicant is willing to make these contributions and has completed the draft S.111 Agreement awaiting Natural England's response (the consultation period ends on 16<sup>th</sup> June).

#### 5.24 CIL

Portsmouth City Council introduced its Community Infrastructure Levy (CIL) charging schedule in April 2012. Most new development which creates over 99sqm of gross internal area or creates a new dwelling is potentially liable for the levy. The proposal would result in the creation of 1 new 'dwelling' totalling 406sqm of GIA floorspace. If existing building discount can be applied to the 351.9sqm of existing GIA floorspace, the likely CIL chargeable amount will be £9,042.95. If it cannot be applied, the likely CIL chargeable amount will be £67,863.90. The application details confirm that the site is currently vacant, although it appears to be silent on the date it was last in continuous lawful use. It is open for the agent/applicant to submit any evidence to the CIL Team showing that the site has been in continuous lawful use for 6 months in the 36 months prior to the day planning permission first permits development (if granted).

#### 5.25 Human Rights and the Public Sector Equality Duty ("PSED")

5.26 The Council is required by the Human Rights Act 1998 to act in a way that is compatible with the European Convention on Human Rights. Virtually all planning applications engage the right to the enjoyment of property and the right to a fair hearing. Indeed, many applications engage the right to respect for private and family life where residential property is affected. Other convention rights may also be engaged. It is important to note that many convention rights are qualified rights, meaning that they are not absolute rights and must be balanced against competing interests as permitted by law. This report seeks such a balance.

5.27 Under section 149 of the Equality Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Further the Council must advance equality of opportunity and foster good relation between those who share a relevant protected characteristic and those who do not. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Having had due regard to the public sector equality duty as it applies to

those with protected characteristics in the context of this application, it is not considered that the officer's recommendation would breach the Council's obligations under the Equality Act 2010.

5.28 Other matters raised in representations not yet addressed

- a) Increased pressure on sewer system.
- b) Increased pressure on public services such as local health services.
- c) Disruption during construction period.

## 6.0 Conclusion

6.1 The proposed use and associated development is considered acceptable subject to the recommended conditions and SPA mitigation secured by a S.111 Agreement.

**RECOMMENDATION I** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to:

- (a) Receipt of 'no objection' from Natural England concerning the SPA Mitigation, and;
- (b) satisfactory completion of a Legal Agreement necessary to secure the mitigation of the impact of the proposed residential development on Solent Special Protection Areas (recreational disturbance and nitrates) by securing the payment of a financial contribution.

**RECOMMENDATION II** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary.

**RECOMMENDATION III** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to refuse planning permission if a Legal Agreement has not been satisfactorily completed within three months of the date of this resolution.

## CONDITIONS:

### Time Limit

1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

### Approved Plans

2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings -

Drawing numbers: Location Plan TQRQM21280143558942, Proposed Ground and First Floor Plans no. PG.7160.22.02 Revision F, Proposed Second Floor Plan and Elevations no. PG.7160.22.03 Revision I, and Proposed Street and Patio Elevations no. PG.7160.22.04 Revision F.

Reason: To ensure the development is implemented in accordance with the permission granted.

### Matching Materials

3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match, in type, colour and texture those on the existing building.

Reason: In the interests of visual amenity in accordance with policy PCS23 of the Portsmouth Plan.

### Noise Insulation Scheme Against Road Traffic Noise

4) Prior to the commencement of construction works a scheme for insulating habitable rooms against road traffic noise shall be submitted to the local planning authority. The approved scheme shall then be implemented before the first occupation of the building and thereafter retained. The scheme shall be designed to ensure that the following acoustic criteria will be achieved in all habitable rooms: Daytime: LAeq(16hr) (7:00 to 23:00) 35 dB, Night-time: LAeq(8hr) (23:00 to 07:00) 30 dB and L<sub>Amax</sub> 45Db.

Reason: In the interests of ensuring an appropriate living environment for those occupying the building, in accordance with policy PCS23 of the Portsmouth Plan.

#### Cycle Storage Details and Implementation

5) Prior to commencement of development, full details of the cycle storage facilities shall have been submitted to and approved in writing by the local planning authority. The approved facilities to be provided for the storage of bicycles shall be constructed and completed before the building is first occupied, or within such extended period as agreed in writing with the Local Planning Authority, and shall thereafter be retained for the continued use by the occupants of the building for that storage at all times.

Reason: To ensure that adequate provision is made for cyclists using the premises in accordance with policies PCS13 and PCS17 of the Portsmouth Plan.

#### Maximum Occupancy

6) The HMO hereby permitted shall not be occupied by more than 13 persons.

Reason: To prevent over-intensification of the use in order to preserve a good standard of living for occupiers and amenity for neighbours, in accordance with the HMO Supplementary Planning Document 2019, and Policy PCS23 of the Portsmouth Plan (2012) .

### **PRO-ACTIVITY STATEMENT**

In accordance with the National Planning Policy Framework the City Council has worked positively and pro-actively with the applicant through the application process, and with the submission of amendments an acceptable proposal has been achieved.

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# Agenda Item 9

23/00208/FUL

WARD:COPNOR

172 CHICHESTER ROAD PORTSMOUTH PO2 0AH

**CHANGE OF USE FROM DWELLING HOUSE (CLASS C3) TO 7 PERSON HOUSE IN MULTIPLE OCCUPANCY (SUI GENERIS)**

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=RQ2WQ8MOH3E00](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=RQ2WQ8MOH3E00)

**Application Submitted By:**

Mrs Carianne Wells  
Applecore PDM Ltd

**On behalf of:**

Wells  
Solent Quarters Ltd

**RDD:** 15th February 2023

**LDD:** 12th April 2023

## 1.0 SUMMARY OF MAIN ISSUES

- 1.1 This application is brought before Planning Committee due to a total of 16 objections from local residents.
- 1.2 The main issues for consideration in the determination of the application are considered to be as follows:
  - The principle of development;
  - Standard of accommodation;
  - Relevant planning history providing fallback position
  - Parking;
  - Waste;
  - Amenity impacts upon neighbouring residents;
  - Impact upon the Solent Protection Areas; and
  - Any other raised matters.

## 2.0 SITE AND SURROUNDINGS

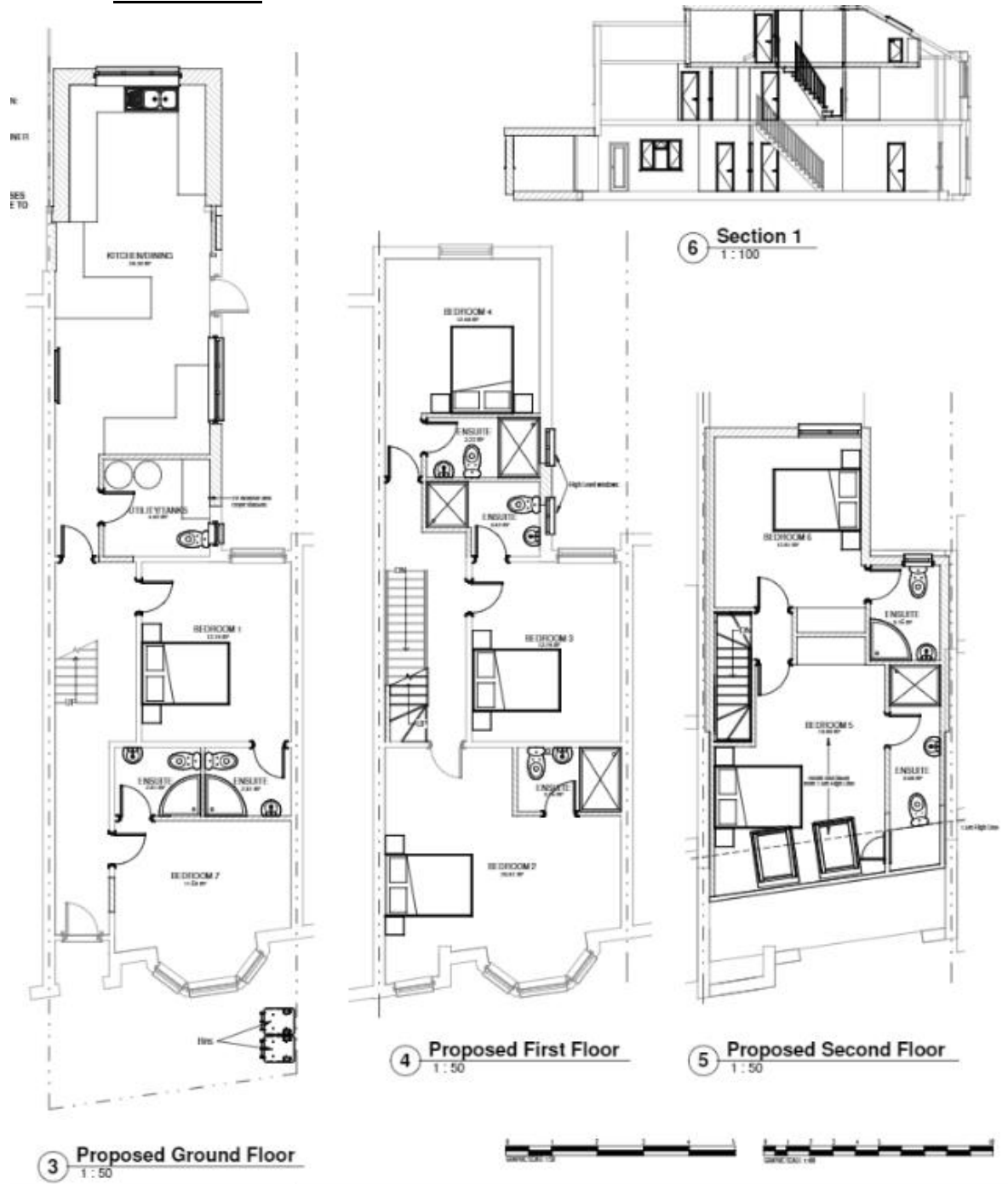
- 2.1 The application relates to a two-storey, mid-terraced dwellinghouse (Class C3) located on the southern side of Chichester Road. It should be noted that planning permission was granted for mixed C3/C4 earlier this year but this permission is not considered to have been implemented. The extant permission is within the 3 year time limit for implementation and thus provides a fallback position. The dwellinghouse is served by bay windows to the front and has a reasonably large front forecourt and rear garden (which has a rear access alleyway which serves as good access to the existing rear bike store). The existing layout comprises a lounge, kitchen and dining room at ground floor level, and 3 bedrooms and a bathroom on the first floor.
- 2.2 The application site falls within a residential area characterised by rows of two-storey terraced properties, with various shops, pubs and other amenities nearby. There are bus stops for both directions directly outside of the property.

### 3.0 THE PROPOSAL

3.1 Planning permission is sought for the Change of use from dwellinghouse (Class C3) to House in Multiple Occupation for seven people.

3.2 The proposed internal accommodation, as shown in the below proposed floorplans comprises the following:

- Ground Floor - 2 bedrooms with ensuites, Communal kitchen-dining area, and WC (in utility and tank room to contain washer and dryer);
- First Floor - 3 bedrooms with ensuites; and
- Second Floor - 2 bedrooms with ensuites.



- 3.3 The Applicant has stated that works to extend the property are to be undertaken under permitted development (without the need to apply for planning permission). These works include a single storey rear extension and rear dormer and are not included in the application. They should not be considered as part of the application but would be necessary to meet the space standards required for the proposed use. Should the applicant wish, these works could, and likely would, go ahead with or without consent for the change of use being considered under this application. It is suggested that it would be prudent to impose a pre-occupation condition should the committee be minded to grant permission requiring that the permitted development works take place prior to the property's occupation as a HMO for 7 persons.

#### **4.0 PLANNING HISTORY**

- 4.1 **23/00130/FUL**- *Change of use from dwelling house (Class C3) to dwelling house (Class C3) or House in Multiple Occupation (Class C4)*. The applicant has stated that this planning permission has not been implemented and there is no evidence to suggest it has (being that no license has been applied for as yet), this application should be considered as a change of use from C3 rather than from C4. It should be noted that the extant permission is still implementable and as such presents a fallback position of use as a C4 HMO with a broadly similar layout and 1 fewer bedroom.

#### **5.0 POLICY CONTEXT**

##### 5.1 Portsmouth Plan (2012)

- 5.2 In addition to the aims and objectives of the National Planning Policy Framework (2021), due weight has been given to the relevant policies within the Portsmouth Plan (2012), which include:
- PCS17 (Transport)
  - PCS20 (Houses in Multiple Occupation)
  - PCS23 (Design and Conservation).

##### 5.3 Other Guidance

- 5.4 Guidance for the assessment of applications that is relevant to the application includes:
- National Planning Practice Guidance (revised 2021)
  - The Parking Standards and Transport Assessments Supplementary Planning Document (2014)
  - The Solent Recreation Mitigation Strategy (2017)
  - The Updated Interim Nutrient Neutral Mitigation Strategy (2022)
  - The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD').

#### **6.0 CONSULTATIONS**

- 6.1 Private Sector Housing - Based on the layout and sizes provided with this application this property would require to be licenced under Part 2, Housing Act 2004. The property will need to be inspected by private sector housing to ensure it meets licensing requirements.

**6.2 Highways Engineer** - no objection. Highlights that there would be no increase in parking requirement (2 spaces) from the fallback position of being able to implement the C4 permission. However, the LHA also acknowledge that in theory an increase in the amount of bedrooms could result in an increase in the level of cars at the property. This may, in turn, result in increased instances of drivers searching for parking spaces, but this would be a matter of residential amenity to consider.

## **7.0 REPRESENTATIONS**

7.1 16 objections receive, including one from Councillor Swann, summarised as:

- a) Lack of car parking provision leading to an increase in traffic and exacerbation of existing on-street parking problems;
- b) Strain on water supply and sewers
- c) There are already too many HMOs in the area
- d) There is a backlog of applications that could result in HMOs being waved through inadvertently. Now that this has been raised, any that are permitted will be considered to be deliberate breaches of policy.
- e) Neighbours would be overlooked due to the rear dormer
- f) The HMO use will negatively affect the value of the neighbours houses
- g) There could be 14 people living in the HMO
- h) Destruction of a family home
- i) Approving the application would be "a callous numbers game for local council instead of genuine action to provide for" residents
- j) The proposed use provides "crammed in sardine box rooms"
- k) People already have to park illegally due to a lack of parking spaces, which is penalised by the Council through Parking Tickets
- l) A HMO is not needed in this area
- m) Due to the installation of a "second floor", the objector could install a roof terrace, buy storage containers and use them as apartments
- n) Increase pollution as Portsmouth is an island
- o) The rear extension will be built over sewer access.
- p) A 2 or 3 storey extension will block out light to neighbouring properties
- q) Parking is strained by users of the Church
- r) The alleyway is private
- s) An objection will be made in court
- t) The "only true winners are HMO developers"
- u) Strains on doctors and schools
- v) Rubbish on the pavement already in the area
- w) Objector works nightshifts and therefore will not be able to work due to the proposed building works
- x) The proposal is causing stress and anxiety and was thrust upon the objector without consultation. The objector will now have to sell their property at a huge loss
- y) Building works and party wall agreements are "a faff".

## **8.0 COMMENT**

8.1 The main determining issues for this application relate to the following:

- The principle of Development;
- The standard of accommodation;
- Impact upon amenity neighbouring residents;
- Parking;
- Waste;
- Impact upon the Solent Protection Areas; and



- Any other raised matters

## 8.2 Principle of development

### Five year Housing Land supply.

8.3 The National Planning Policy Framework (NPPF) states that planning decisions should be based on a presumption in favour of sustainable development (paragraph 11). That presumption does not apply where the project is likely to have a significant effect on a 'habitats site' (including Special Protection Areas) unless an appropriate assessment has concluded otherwise (paragraph 182). Where a local planning authority cannot demonstrate a five year housing land supply of deliverable sites, the NPPF deems the adopted policies to be out of date and states that permission should be granted for development unless:

- I. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or
- II. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

8.4 Currently, the Council can demonstrate 2.9 years supply of housing land. The starting point for determination of this application is therefore the fact that the authority cannot demonstrate a five year supply of housing. This development would provide greater occupation of the building, so make a small, additional contribution towards the City's housing needs, at a sustainable location in the city, with good public transport, retail and services, employment, leisure, health facilities, etc.. These factors weigh in favour of the proposed development. The further, specific impacts of the proposal must still be considered as to whether the development is appropriate in detail, as set out below.

### HMO Policy

8.5 Permission is sought for the use of the property as a Sui Generis HMO for 7 persons. The property is currently considered to have a lawful use as a self-contained dwelling (Class C3), however, an extant permission for flexible C3/C4 use has already established the acceptability of a HMO in the area and presents a fallback position which should be given significant weight in the consideration.

8.6 Policy PCS20 of the Portsmouth Plan states that applications for 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. The adopted Houses in Multiple Occupation SPD (as amended October 2019), sets out how Policy PCS20 will be implemented and details how the City Council will apply this policy to all planning applications for HMO uses. The SPD states that a community will be considered to be imbalanced where more than 10% of residential properties within the area surrounding the application site (within a 50m radius) are already in HMO use.

8.7 It should be noted that HMO use has already been granted at this property and therefore there would be no further increase in the numbers of HMOs should this application be granted. Therefore, it would not be sustainable at appeal, or reasonable in a costs defence, to refuse this application under Policy PCS20 (Mixed and Balanced Communities).

- 8.8 For reference, the HMO use of 172 Chichester Road results in 3 HMO uses out of a total of 64 residential properties. This produces a HMO percentage of 4.68% which, regardless of the fallback position, falls well below the 10% threshold allowed by PCS20.



- 8.9 A further policy strand introduced in July 2018, amended in October 2019, seeks to ensure that the amenity and standard of living environment of neighbours and local occupiers is protected. This is explained within Appendix 6 of the HMO SPD, which references the specific proximity of HMOs to adjacent dwellings and how these circumstances may give rise to a particular risk of harm to amenity and disturbance. These are where: the granting of the application would result in three or more HMOs adjacent to each other, or where the granting of the application would result in any residential property being 'sandwiched' between two HMOs. There is no conflict caused by this proposal with this guidance.

- 8.10 Having regard to the above, the proposal would comply with the aims and objectives of Policies PCS19 and PCS20 of the Portsmouth Plan (2012).

8.11 Standard of accommodation

- 8.12 The application seeks Sui Generis HMO use for 8 persons and proposes the following room sizes, as shown in **Table 1** below.

Room	Area Provided	Required Standard
Bedroom 1	12.74m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 2	20.81m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 3	12.74m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 4	12.49m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 5	13.8m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 6	12.81m <sup>2</sup>	6.51m <sup>2</sup>

Bedroom 7	11.68m <sup>2</sup>	6.51m <sup>2</sup>
Utility/WC	4.92 m <sup>2</sup>	1.17m <sup>2</sup>
Communal Kitchen/Dining area (ground floor)	26.2m <sup>2</sup>	22.5m <sup>2</sup> (as all bedrooms exceed 10m <sup>2</sup> )
Ensuite bathroom 1	2.81m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 2	3.16m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 3	3.42m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 4	3.22m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 5	3.88m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 6	3.16m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 7	2.81m <sup>2</sup>	2.74m <sup>2</sup>

**Table 1 - HMO SPD (Oct 2019) compliance**

- 8.13 All rooms comfortably exceed the required space standards and the proposal is considered to provide a good standard of living for future occupiers.
- 8.14 Impact on neighbouring living conditions
- 8.15 In terms of the impact on the living conditions of the adjoining occupiers, it is considered that the level of activity that could be associated with the use of any individual property as a dwellinghouse in Class C3, would be unlikely to be significantly different from the occupation of the as a house in multiple occupation, and would not be discernible from the fallback position of 6 unrelated individuals.
- 8.16 The HMO SPD is supported by an assessment of the need for, and supply of, shared housing in Portsmouth and of the impacts of high concentrations of HMOs on local communities. Paragraphs 9.1-9.10 discuss the negative impacts of HMO concentrations on local communities and points to the cumulative environmental effects of HMO concentrations. However, given that there is not an over-concentration of HMOs within the surrounding area, it is considered that the impact of one HMO would not be significantly harmful, nor would the increase in 1 occupant when considered against the fallback position. The principle of a HMO use at this dwellinghouse has already been established as acceptable.
- 8.20 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.
- 8.21 Highways/Parking
- 8.22 The City Council's Parking Standards SPD sets the level of off-road parking facilities for new developments within the city and places a requirement of 2 off-road spaces for Sui Generis HMOs with four or more bedrooms. However, it should be noted that the expected level of parking demand for a Class C3 dwellinghouse with three bedrooms would be 1.5 off-road spaces, a difference of just 0.5 spaces. The proposal has no off-street parking, which is no change from the current use, or the fallback position.
- 8.23 As explained above, neither the Highways Officer nor Planning Officer highlights a serious issue with the scheme on the grounds of a lack of off street parking. As the SPD requirement for parking is not materially different for the proposal than a similarly sized Class C3 dwellinghouse or C4 HMO (2 spaces) , it is considered that refusal on a lack of parking is not reasonable or defensible. There is no objection on either highway safety grounds and therefore refusal could not be sustained on appeal. It should be noted that

the property could be occupied by a large family and/or with adult children, each potentially owning a separate vehicle, or even more than 1 vehicle each.

- 8.24 The Council's Adopted Parking Standards set out a requirement for 8 person HMOs to provide space for the storage of at least 4 bicycles. The property has an existing outbuilding which is to be used as a bike shed which can be accessed via the rear alleyway. The requirement for this outbuilding to be converted for and retained as secure and weatherproof cycle storage for 4 bicycles is recommended to be secured by condition.
- 8.25 Waste
- 8.26 The storage of refuse and recyclable materials can be accommodated in the ample front forecourt. It is not considered necessary to require details of formalised waste storage.
- 8.27 Impact on Special Protection Areas
- 8.28 As there is a measurable increase in occupancy from 2.4 persons (for a C3 dwelling) to 7 persons, mitigation for increased Nitrate and Phosphate Output into the Solent and Recreational Disturbance to the SPA is required. This can be secured through a s111 agreement, which the applicant has agreed to, and Natural England also.
- 8.31 Human Rights and the Public Sector Equality Duty ("PSED")
- 8.32 The Council is required by the Human Rights Act 1998 to act in a way that is compatible with the European Convention on Human Rights. Virtually all planning applications engage the right to the enjoyment of property and the right to a fair hearing. Indeed, many applications engage the right to respect for private and family life where residential property is affected. Other convention rights may also be engaged. It is important to note that many convention rights are qualified rights, meaning that they are not absolute rights and must be balanced against competing interests as permitted by law. This report seeks such a balance.
- 8.33 Under section 149 of the Equality Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Further the Council must advance equality of opportunity and foster good relation between those who share a relevant protected characteristic and those who do not. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Having had due regard to the public sector equality duty as it applies to those with protected characteristics in the context of this application, it is not considered that the officer's recommendation would breach the Council's obligations under the Equality Act 2010.
- 8.34 Other Matters raised in the representations
- 8.35 Members will be able to identify that the vast number of issues raised in the objections are not material planning issues, raise issues that do not involve the application in question or refer to works that are simply not proposed to occur. These should therefore be disregarded. For summary and completeness, these points, as listed above are: b, d, f, h, l, k, m, o, p, q, r, s, t, v, w, x and y. These concerns, where founded, will be covered by other Council Departments such as Parking Enforcement, HMO Licensing/Private Sector Housing, Building Control and Waste. Issues can be dealt with as and when they arise by those departments, and in any cases where illegal activity is involved, as has

been suggested will be the case by some objectors, neighbours should contact the Police.

- 8.36 Many objections centre around parking issues. This matter is discussed above in greater length. In summary, a lack of parking could not be defended at appeal due to policy having the same parking requirement for the fallback position of C4 use which can be implemented, and the current C3 use (with some minor internal/PD works).
- 8.37 Many comments raise concerns over the impact of the PD works. These works are not included in this application and are beyond the control of the Local Planning Authority. These works could be implemented without the need to apply for permission under the current C3 use or the allowed C4 use.
- 8.38 Some comments object due to the apparent poor quality of living for future occupiers and the high number of HMOs already in the area. Both of these objections are considered to be unfounded because the proposal is found to comply with both policies PCS20 and PCS23 of the Portsmouth Plan.
- 8.39 One objector raises concerns that 14 people will occupy the property. The application is for 7 persons and this would be monitored and controlled through the licensing regime. However, members may consider imposing an occupancy condition (although this is not considered necessary).

## **9.0 CONCLUSION**

- 9.1 Having regard to all material planning considerations, giving significant weight to the fallback position available to applicant of implementing the previous permission for a 6 person HMO, and representations received, it is concluded that the proposed change of use is acceptable and would be in accordance with the relevant policies of the Portsmouth Plan (2012) and the objectives of the National Planning Policy Framework (NPPF) (2021).

**RECOMMENDATION I** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to:

- (a) Receipt of 'no objection' from Natural England concerning the SPA Mitigation, and;
- (b) satisfactory completion of a Legal Agreement necessary to secure the mitigation of the impact of the proposed residential development on Solent Special Protection Areas (recreational disturbance and nitrates) by securing the payment of a financial contribution.

**RECOMMENDATION II** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary.

**RECOMMENDATION III** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to refuse planning permission if a Legal Agreement has not been satisfactorily completed within three months of the date of this resolution.

### **Conditions**

#### **Time Limit:**

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990

**Approved Plans:**

- 2) Unless otherwise agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: 172ChichesterRd.22.1,

Reason: To ensure the development is implemented in accordance with the permission granted.

**Cycle Storage:**

- 3) Prior to first occupation of the property as a House in Multiple Occupation, secure and weatherproof bicycle storage facilities for 4 bicycles shall be provided at the site and shall thereafter be retained for the parking of bicycles at all times.

Reason: To ensure that adequate provision is made for cyclists using the premises in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.

**PD Works**

- 4) Prior to the occupation of the property as a HMO for 7 persons, the single storey rear extension and rear dormer proposed to be constructed under permitted development allowances shall be completed.

Reason: In order to ensure that the property meets the required space standards and therefore provides a good standard of living in accordance with Policy PCS23 of the Portsmouth Plan.

# Agenda Item 10

22/01735/HOU

WARD: ST THOMAS

11 ST DAVIDS ROAD SOUTHSEA PO5 1QH

REPLACEMENT OF FRONT DOOR; WIDENING OF DROPPED KERB; ALTERATIONS TO INCLUDE PARTIAL REMOVAL OF BOUNDARY WALL AND REPOSITION EXISTING PIER

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=RMXTBMOG0D00](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=RMXTBMOG0D00)

**Application Submitted By:**

Mr Amir Hussain

**On behalf of:**

Mr Amir Hussain

**RDD:** 16th December 2022

**LDD:** 16th February 2023

## 1.0 SUMMARY OF MAIN ISSUES

1.1 The application has been brought to the Planning Committee for determination due to the number of objections (9) received.

1.2 The main issues for consideration are:

- Design and impact on the 'St David's Road' Conservation Area;
- Impact on residential amenity;
- Highway Impacts;
- Human Rights;
- Equality Act; and
- Other Issues.

## 2.0 SITE, PROPOSAL AND RELEVANT PLANNING HISTORY

2.1 Site and surroundings

2.2 This application relates to a semi-detached property which is located on the western side of St David's Road, to the north of the junction with Margate Road. The site is located within 'St David's Conservation Area (No.30) The southern section of St David's Road is characterised by large two-storey semi-detached red brickwork properties. Most of these properties feature front driveways, set back behind brick boundary walls. The existing dwelling features a driveway and vehicular access at its northern third. The boundary as existing is a red brick boundary wall to a height of 0.8m, with planting growing above the majority of the wall. The existing vehicular access measures 2.7m in width.

2.3 The property is also subject to an Article 4(2) direction which imposes a requirement for planning permission to be sought for the replacement of windows and doors on the front elevation (removing "permitted development" rights under Class A of Part 1 of the schedule 2 of the Order). The existing property features a red painted wooden door.



**Figure 1 Existing Plans and Elevations**

2.4 Proposal

2.5 Planning Permission is sought for the replacement of the front door; widening of the dropped kerb; alterations to include partial removal of boundary wall and reposition existing pier.

2.6 The proposed replacement front door would be composite, though would have a similar appearance to the wooden door.

2.7 The dropped kerb would be widened to 5.7m and the vehicular access would be widened to 5.5m, as such a section of the front boundary wall would be demolished and removed. The retained wall would stay at 0.8m high and planting is indicated to remain growing above it. The applicant states that the existing access width only allows one car to be parked on the front garden, they would like two.

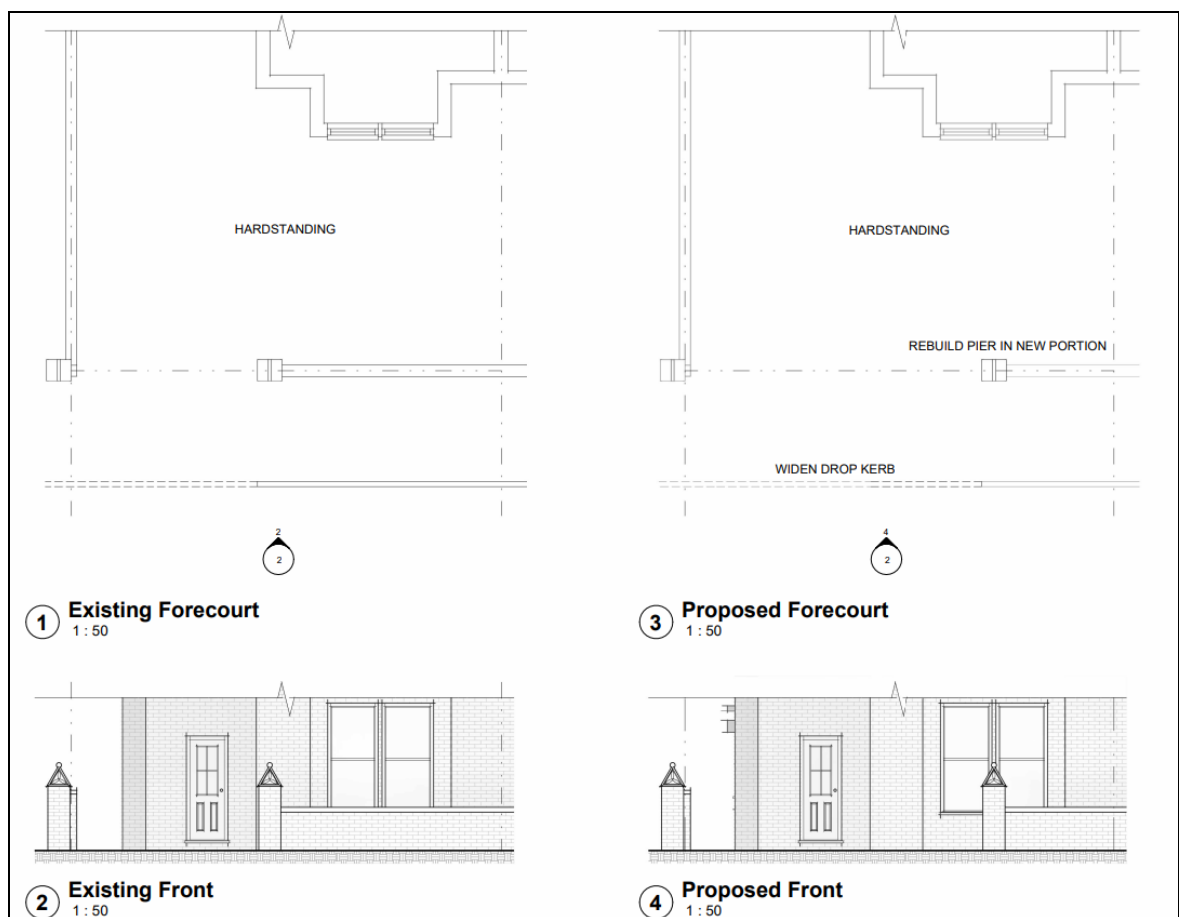


**Figure 2 Proposed Plans and Elevations**

2.8 Planning History



- 2.9 The construction of single storey rear extension and installation of window to north elevation was Permitted in 2022 under Planning Ref: 21/01046/HOU. It is noted that the application originally included an extension to the vehicular access, as now proposed within this application. This was removed at the encouragement of the previous Case Officer as it was considered unlikely to be supportable.
- 2.10 However, Members' attention is brought to a recently Allowed Appeal on the neighbouring property, No.13 St David's Road (21/01662/HOU/PP/Z1775/D/22/3297683). This appeal was due to the Local Planning Authority's refusal of an application for alterations to front boundary forecourt and extension of dropped kerb. The application proposed an almost identical extension to the vehicular access and therefore identical loss of front boundary wall to that that now proposed at no. 11. The application was refused for the following reason:
1. *The part demolition of the front wall, due to the incremental loss of the boundary treatment would result in an unsympathetic alteration the property and wall, which forms an important townscape feature and is therefore considered to erode the visual amenities of the area. The proposal would therefore neither preserve nor enhance the character or appearance of the conservation area and is therefore contrary to the aims and objectives of the National Planning Policy Framework, Policy PCS23 (Design and Conservation) of the Portsmouth Plan and the Council's published guidelines for development in the 'St David's Road' Conservation Area.*



**Figure 3 Plans submitted for 13 St David's Road (21/01662/HOU/ APP/Z1775/D/22/3297683)**

- 2.12 The inspector disagreed with the reason for refusal, stating that: *"The front garden to the appeal site is already partly used for off street parking and whilst the submitted plan shows the frontage as hardstanding, at the time of my site visit the area behind the existing boundary wall was covered in building rubble. The appeal proposal would involve increasing the existing gap(driveway) and dropped kerb to enable easier access and additional parking within the front garden. Based on my observations on site, the*

*proposal would lead to the loss of one on street parking space. The host property retains several of its original historic features, including the decorative gate pillars on either side of the driveway and a section of original wall to the north of the driveway. Whilst part of the original wall would be removed, the northern gate pillar would be rebuilt to match existing...I accept that the proposal would lead to a change in the appearance of the frontage to the host property, but when viewed within the wider streetscene and in the context of the other alterations that have already taken place to boundary walls and pillars, the appeal proposal would not result in any harm to the character or appearance of the SDRCA as a whole....Accordingly, I find that the proposed development would preserve the character and appearance of the SDRCA as a whole in that it would leave it unharmed, and would thus be in accord with policy PCS23 of the TPP and the corresponding policies of the Framework."*

### **3.0 POLICY CONTEXT**

3.1 In addition to the aims and objectives of the National Planning Policy Framework (2021), the relevant policies within the relevant policies within the Portsmouth Plan (Jan 2012) would include:

- PCS17 - Transport
- PCS23 - Design & Conservation

### **4.0 CONSULTATIONS**

#### **4.1 Highways Engineer**

4.2 St David's Road is an unclassified residential road with a mixture of terraced and semi-detached properties along its entirety. The property and those in the immediate vicinity are subject to a residents parking zone LB.

4.3 The proposal would provide for an additional parking space within the curtilage of the property. It is not considered that the proposal would have any detrimental impact on Highway Safety or Highway Function above the current situation and therefore no objection would be raised.

4.4 If approval is granted, formation of the crossing will require the amendment of the RPZ TRO. This will need to be secured by condition or informative and the applicant should be directed to the TRO team at Portsmouth City Council.

#### **4.5 Arboricultural Officer**

4.6 No objections raised.

### **5.0 REPRESENTATIONS**

5.1 Nine objections have been received, summarised as:

- a) Loss of one on street parking space;
- b) Impact of the character and appearance of the Conversation Area;
- c) Loss of Council revenue due to less parking;
- d) Councils previous advice to the applicant over the dropped kerb; and
- e) Impact on the environment due to the loss of the hedging.

### **6.0 COMMENT**

6.1 The main issues for consideration are:

- Design and impact on the 'St David's Road' Conservation Area;
- Impact on residential amenity;

- Highway Impacts;
- Human Rights;
- Equality Act; and
- Other Issues.

6.2 Design and impact on the 'St David's Road' Conservation Area;

6.3 Policy PCS23 of the Portsmouth Plan echoes the principles of good design set out within the National Planning Policy Framework and requires all new development be well designed and respect the character of the city. The following will be sought in new development, appropriate scale, density, layout, appearance, and materials in relation to the particular context.

6.4 In addition, when determining planning applications, the Local Planning Authority (LPA) must also consider what impact the proposal would have on both designated and non-designated heritage assets. Section 72 of the Listed Buildings and Conservation Areas Act 1990 (as amended) requires that LPAs pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. The NPPF considers the matter of assessing (any) harm to heritage assets.

6.5 In regard to the change to the access, the St David's Road Conservation Guidelines state:

- *The city council will encourage the reinstatement of walls, gate pillars and railings to match the original style of that property.*
- *Where a parking area is formed within a front garden then it is desirable to keep openings in the boundary wall/fence to the minimum and to retain as much of the enclosure as possible.*
- *The city council will encourage the retention of front garden areas. Where sites have been partly used for parking spaces the retention of planting at the perimeter of the site will be encouraged.*

6.6 While the proposal would not keep the vehicular access to the minimum, the retained wall would match the original style of the property. Further the plans show that the planting above the boundary wall would be retained. The recent appeal decision at no. 13, for a near-identical proposal, concluded that there would be no harm to the conservation area, and therefore the proposal would preserve the character and appearance of the area. As such, there is no alternative but to allow this proposal also.

6.9 In regard to the change to the front door, the St David's Road Conservation Guidelines state:

- *The city council will encourage the retention or reinstatement of original or sympathetic external front doors and will discourage the use of doors of inappropriate size, design or material.*
- *The city council will discourage the use of uPVC, aluminium, stained wood or other inappropriate materials or finishes.*

6.10 Whilst the proposed door would not be a solid timber door, it would have a similar style and appearance to the existing front door which would reflect the historical character of the house. There are several properties within the surrounding area that have replaced their original doors with similar laminate doors, a recent example being No.10 St David's Road (18/00846/HOU). It is therefore considered that the proposed replacement door would preserve the character and appearance of the Conservation Area. As such there would be no harm towards the built heritage of the area.

- 6.11 The application is therefore considered to be acceptable in regards to its design and impact upon the Conservation Area and accords with Policy PCS23 of The Portsmouth Plan (2012)
- 6.12 Impact on residential amenity
- 6.13 Policy PCS23 of the Portsmouth Plan requires new development to protect the amenity of neighbouring residents.
- 6.14 Given the nature of the alterations it is not considered that they would result in any harm towards the surrounding neighbour's amenity in accordance with Policy PCS23 of the Portsmouth Plan (2012) and the aims and objectives of the NPPF (2021).
- 6.15 Highway Impacts
- 6.16 Policy PCS17 ensures, inter alia, that the City Council and partners will reduce the need to travel and provide sustainable modes and promote walking and cycling.
- 6.17 The application due to the increase in size of the dropped kerb would result in the loss of one on street parking space. The application has been reviewed by the Council's Highways Officer who has raised no objection. It is noted that a similar loss was noted within the Allowed Appeal on the neighbouring property. It is therefore considered that a refusal due to a loss of one parking space could not be reasonably defended at appeal.
- 6.18 Human Rights
- 6.19 The Council is required by the Human Rights Act 1998 to act in a way that is compatible with the European Convention on Human Rights. Virtually all planning applications engage the right to the enjoyment of property and the right to a fair hearing. Indeed, many applications engage the right to respect for private and family life where residential property is affected. Other convention rights may also be engaged. It is important to note that many convention rights are qualified rights, meaning that they are not absolute rights and must be balanced against competing interests as permitted by law. This report seeks such a balance.
- 6.20 Equality Act
- 6.21 Under section 149 of the Equality Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Further the Council must advance equality of opportunity and foster good relations between those who share a relevant protected characteristic and those who don't. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Having had due regard to the public sector equality duty as it applies to those with protected characteristics in the context of this application, it is not considered that the officer's recommendation would breach the Council's obligations under the Equality Act 2010.
- 6.22 Other Issues
- 6.23 Loss of revenue for the Council due to the removal of on-street parking is not a material planning consideration.
- 6.24 While a section of the hedge would be removed, the Council does not have any power to require its retention in the first instance. As such it is not considered that it could represent a reason for refusal.
- 6.25 Conclusion

- 6.26 Based on the recent appeal decision, the proposal is considered to preserve the character and appearance of the St David's Road Conservation Area and is acceptable in regard to its amenity and highways impacts. The proposal therefore constitutes sustainable development and should be granted planning permission.

## **RECOMMENDATION                      Conditional Permission**

### **Conditions**

#### Time Limit

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

#### Approved Plans

- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Proposed Plans and Elevations - 109 P.02 Revision P2 and Location Plan - p2cuk/661869/896847.

Reason: To ensure the development is implemented in accordance with the permission granted.

#### Pier details

- 3) The new pier at the southern end of the widened access shall match the existing at the northern end, in design, scale, materials, brick bonding and mortar striking, and in capping detail. Prior to the commencement of development, an amended plan and elevation, and full details (scale: 1:20) of the coping, shall be submitted for the written approval of the Local Planning Authority, confirming the position, scale and design of the feature. The approved details shall be installed as approved and thereafter retained. Where possible, existing bricks should be retained and used.

Reason: In the interests of visual amenity of the Conservation Area and in accordance with policy PCS23 of the Portsmouth Plan (2012).

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# Agenda Item 11

23/00110/FUL

WARD: COPNOR

68 BEDHAMPTON ROAD PORTSMOUTH PO2 7JY

CHANGE OF USE FROM DWELLINGHOUSE (CLASS C3) TO PURPOSES FALLING WITHIN DWELLINGHOUSE (CLASS C3) OR HOUSE IN MULTIPLE OCCUPATION (CLASS C4)

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=RMR6KUMOFWH00](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=RMR6KUMOFWH00)

**Application Submitted By:**

Carianne Wells  
Applecore PDM Ltd

**On behalf of:**

Mr Mendonca

**RDD:** 13th December 2022

**LDD:** 8th February 2023

## 1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee due to the number of objections (six) including one from Councillor Swann.

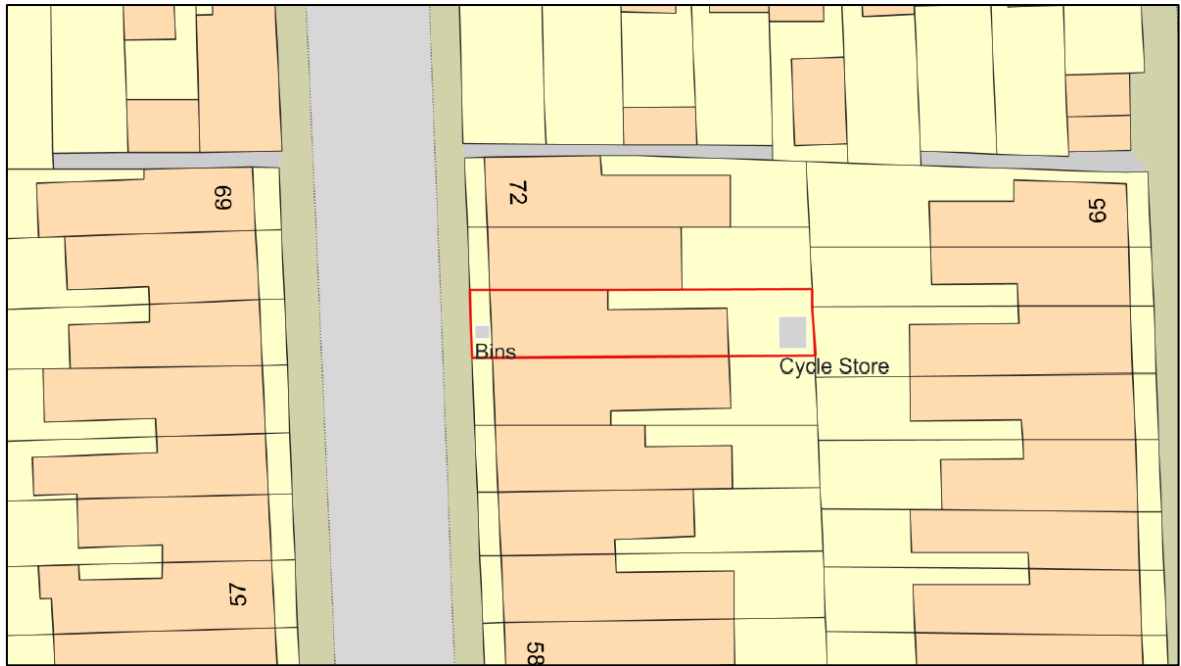
1.2 The main issues for consideration in the determination of the application/appeal are considered to be as follows:

- The principle of development;
- Standard of accommodation;
- Parking;
- Waste;
- Amenity impacts upon neighbouring residents;
- Impact upon the Solent Protection Areas; and
- Any other raised matters.

## 2.0 SITE AND SURROUNDINGS

2.1 The application relates to a two-storey, mid-terrace dwellinghouse (Class C3) located on the eastern side of Bedhampton Road as shown in **Figure 1** below. The dwellinghouse is set back from the road by a small front forecourt and to the rear of the property is an enclosed garden. The existing layout comprises of a front room, kitchen, WC, rear room and conservatory at ground floor level; three bedrooms and a bathroom at first floor level.

2.2 The application site is within a predominantly residential area characterised by rows of similar two-storey terraced properties with a similar visual style. Three of the properties within the 50m radius have been subdivided into flats, all of which are in Chichester Road to the north.



**Figure 1 - Site Location Plan**

### 3.0 THE PROPOSAL

3.1 Planning permission is sought for the change of use of the property from a dwellinghouse (Class C3) to a dwellinghouse (Class C3) or House of Multiple Occupation (HMO) (Class C4) use with up to six individuals living together.

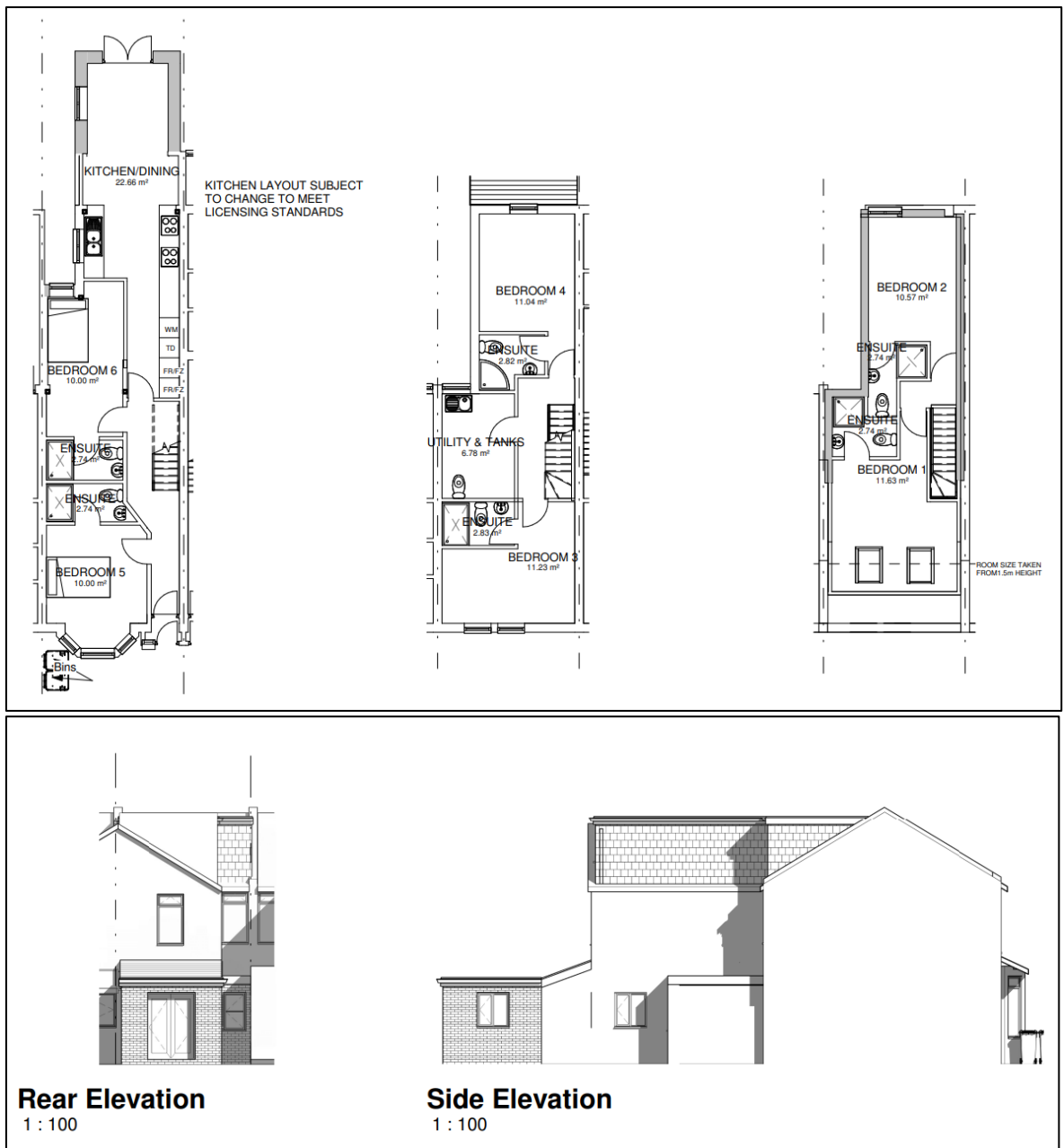
3.2 The proposed internal accommodation, as shown in **Figure 2** below, comprises the following:

- Ground Floor - Two bedrooms (each with a shower, toilet and handbasin ensuite), Kitchen/Dining room;
- First Floor - Two bedrooms (each with a shower, toilet and handbasin ensuite) and a utility and tank room ; and
- Second Floor - Two bedrooms (each with a shower, toilet and handbasin ensuite).

3.3 The Applicant intends to construct a single storey rear extension on the back of an existing lean-to, a small rear/side extension, and a rear dormer extension within the main roof and insert two rooflights within the front roofslope under permitted development, as shown below in the drawing below, to facilitate the enlargement of the property before undertaking the proposed development. The extensions and alterations can be completed under permitted development regardless of whether the property is in Class C3 or C4 use.

3.4 Given the external alterations and enlargements to the property are considered to be permitted development, it is not possible to consider the design or amenity impact of the rear dormer or side/rear ground floor extension as part of this application. There would be no further external operational development forming part of this application with the exception of the siting of a cycle store within the rear garden, details of which could be secured by planning condition.





*Figures 2 and 3 - Proposed Elevations and Plans*

#### 4.0 PLANNING HISTORY

- 4.1 22/00095/GPDC: Construction of single storey rear extension extending 4.3m beyond the rear wall, with a height of 2.8m to the eaves and a maximum height of 3m. Refused (23.12.2022).

#### 5.0 POLICY CONTEXT

##### 5.1 Portsmouth Plan (2012)

- 5.2 In addition to the aims and objectives of the National Planning Policy Framework (2021), due weight has been given to the relevant policies within the Portsmouth Plan (2012), which include:

- PCS17 (Transport)
- PCS20 (Houses in Multiple Occupation)

- PCS23 (Design and Conservation).

### 5.3 Other Guidance

5.4 Guidance for the assessment of applications that is relevant to the application includes:

- National Planning Practice Guidance (revised 2021)
- The Parking Standards and Transport Assessments Supplementary Planning Document (2014)
- The Solent Recreation Mitigation Strategy (2017)
- The Updated Interim Nutrient Neutral Mitigation Strategy (2022)
- The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD').

## 6.0 CONSULTATIONS

6.1 Private Sector Housing - Based on the layout and sizes provided with this application this property would require to be licenced under Part 2, Housing Act 2004. The property will require to be inspected to assess the usability of the kitchen layout.

6.2 Highways Engineer - no objection.

6.3 Bedhampton Road is an unclassified residential street with the majority of terraced dwellings along its entirety with parking accommodated through unrestricted on street parking.

6.4 No traffic assessment has been provided however given the small scale of the development, I am satisfied that the proposal would not have a material impact on the local highway network.

6.5 The proposed application seeks to convert an existing 3 bedroom residential dwelling to a 7 bedroom HMO.

6.6 Portsmouth City Councils Parking SPD gives the expected level of vehicle and cycle parking within new residential developments. The requirement for a 3 bedroom dwelling is 2 vehicle spaces and 4 cycle spaces, this compared with the requirement for a 7 bedroom HMO is 2 spaces and 4 cycle spaces. Consequently the parking and cycle requirement remains unchanged. A cycle store is provided to the rear of the property for 4 cycles, however no parking is proposed as part of this application.

## 7.0 REPRESENTATIONS

7.1 Twelve objections received, including one from Councillor Swann, summarised as.

- a) Loss of family home from the existing housing stock;
- b) Lack of car parking provision leading to an increase in traffic and exacerbation of existing on-street parking problems;
- c) Undue strain on local services and infrastructure, including the sewage, drainage and water pressure;
- d) Concerns over accuracy of HMO Database for area;
- e) Concerns about impact on community
- f) Noise and disturbance from building work;

## 8.0 COMMENT

8.1 The main determining issues for this application relate to the following:

- The principle of Development;
- The standard of accommodation;
- Impact upon amenity neighbouring residents;
- Parking;
- Waste;
- Impact upon the Solent Protection Areas; and
- Any other raised matters

## 8.2 Principle of development

- 8.3 Permission is sought for the flexible use of the property for purposes falling within Class C4 (house in multiple occupation) (HMO) or Class C3 (dwellinghouse). The property currently has a lawful use as a self-contained dwelling (Class C3). For reference, a Class C4 HMO is defined as *'a property occupied by between three and six unrelated people who share basic amenities such as a kitchen or bathroom'*.
- 8.4 Policy PCS20 of the Portsmouth Plan states that applications for 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. The adopted Houses in Multiple Occupation SPD (as amended October 2019), sets out how Policy PCS20 will be implemented and details how the City Council will apply this policy to all planning applications for HMO uses. The SPD states that a community will be considered to be imbalanced where more than 10% of residential properties within the area surrounding the application site (within a 50m radius) are already in HMO use.
- 8.5 Based on the information held by the City Council, of the 72 properties within a 50-metre radius of the application site, there are only 2 confirmed HMOs (Class C4) at 55 and 63 Bedhampton Road as shown in **Figure 4** below. Whilst this is the best available data to the Local Planning Authority (LPA) and is updated on a regular basis, there are occasions where properties have been included or omitted from the database in error or have lawfully changed their use away from Class C4 HMOs without requiring the express permission of the LPA.
- 8.6 Following further Officer Investigation, no additional HMOs have been uncovered by the Case Officer. Including the application property, the proposal would bring the percentage of HMOs within the area up to 4.16%. This would be lower than the 10% threshold above which an area is considered to be imbalanced and in conflict with Policy PCS20.



**Figure 4** - Existing HMOs within 50m of the application site

- 8.7 A further policy strand introduced in July 2018, amended in October 2019, seeks to ensure that the amenity and standard of living environment of neighbours and local occupiers is protected. This is explained within Appendix 6 of the HMO SPD, which references the specific proximity of HMOs to adjacent dwellings and how these circumstances may give rise to a particular risk of harm to amenity and disturbance. These are where: the granting of the application would result in three or more HMOs adjacent to each other, or where the granting of the application would result in any residential property being 'sandwiched' between two HMOs. There is no conflict caused by this proposal with this guidance.
- 8.8 Having regard to the above, the proposal would comply with the aims and objectives of Policies PCS19 and PCS20 of the Portsmouth Plan (2012).
- 8.9 Standard of accommodation
- 8.10 The application seeks, in addition to a C3 use, the opportunity to use the property as a C4 HMO which would, in planning terms, technically allow occupation by up to six individuals. The submitted plans have been checked by officers, and, notwithstanding the annotations on the submitted plans the measured rooms sizes have been used for assessment purposes. For the proposed C4 HMO use, the room sizes have been assessed against the space standards for an HMO as shown in **Table 1** below.

Room	Area Provided	Required Standard
Bedroom 1 (second floor)	11.63m <sup>2</sup>	10m <sup>2</sup>
Bedroom 2 (second floor)	10.57m <sup>2</sup>	10m <sup>2</sup>
Bedroom 3 (first floor)	11.23m <sup>2</sup>	10m <sup>2</sup>
Bedroom 4 (first floor)	11.04m <sup>2</sup>	10m <sup>2</sup>
Bedroom 5 (ground floor)	10m <sup>2</sup>	10m <sup>2</sup>
Bedroom 6 (ground floor)	10.4m <sup>2</sup>	10m <sup>2</sup>
Utility room (first floor)	6.78m <sup>2</sup>	Unrequired/additional
Communal Kitchen/Dining area (ground floor)	22.66m <sup>2</sup>	22.5m <sup>2</sup> as all bedrooms exceed 10m <sup>2</sup>
Ensuite bathroom 1 (second floor)	2.74m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 2 (second floor)	2.74m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 3 (first floor)	2.83m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 4 (first floor)	2.82m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 5 (ground floor)	2.74m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 6 (ground floor)	2.74m <sup>2</sup>	2.74m <sup>2</sup>

**Table 1** - HMO SPD (Oct 2019) compliance

- 8.11 The kitchen/dining area only just meets the minimum size standard for the proposed use, and is rather narrow for its first third. There is an additional utility space on the first floor, which would be used for washing and drying of clothes, relieving space within the individual bedrooms and kitchen area. This is on balance considered to overcome the Officer concerns with respect to the standard of accommodation, given the otherwise acceptable size of the bedrooms and toilet facilities. All the rooms would benefit from a good standard of light and outlook and overall the layout is considered to accord with the HMO SPD (October 2019) and 'The Standards for Houses in Multiple Occupation' document dated September 2018.
- 8.12 Impact on neighbouring living conditions
- 8.13 In terms of the impact on the living conditions of the adjoining occupiers, it is considered that the level of activity that could be associated with the use of any individual property either as a dwellinghouse (Class C3) which involves occupation by a single family, would be unlikely to be significantly different from the occupation of the property by between 3 and 6 unrelated persons as a house in multiple occupation.
- 8.14 The HMO SPD is supported by an assessment of the need for, and supply of, shared housing in Portsmouth and of the impacts of high concentrations of HMOs on local communities. Paragraphs 9.1-9.10 discuss the negative impacts of HMO concentrations on local communities and points to the cumulative environmental effects of HMO concentrations. However, given that there is not an over-concentration of HMOs within the surrounding area, it is considered that the impact of one further HMO would not be significantly harmful.
- 8.15 In terms of the impact on the living conditions of the adjoining occupiers, it is considered that the level of activity that could be associated with the use of any individual property as a dwellinghouse (Class C3), would not be significantly different from the occupation of the property by between 3 and 6 unrelated persons as a house in multiple occupation.
- 8.16 Whilst activity in regards to coming and goings to the site as well as cooking and general household activities, through the occupants possibly not acting as a collective and

therefore cooking meals on an individual basis, may be increased with the introduction of a HMO in this location, it would not result in an overconcentration of HMOs within the surrounding area, and therefore it is considered that the impact of one further HMO (bringing the total to two within a 50m radius) would not have any demonstrable adverse impact to wider amenity.

- 8.17 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.
- 8.18 Highways/Parking
- 8.19 The City Council's Parking Standards SPD sets the level of off-road parking facilities for new developments within the city and places a requirement of 2 off-road spaces for Class C4 HMOs with four or more bedrooms. However, it should be noted that the expected level of parking demand for a Class C3 dwellinghouse with four or more bedrooms would also be 2 off-road spaces, and these bedrooms could be achieved by permitted development without any planning control on parking. The expected level of parking demand for a Class C3 dwellinghouse with three bedrooms (as existing) is 1.5 off-road spaces. The property has no off-street parking.
- 8.20 The C4 element of the proposal compared to the existing property only expects an extra half a parking space, to which neither the Highways Officer nor Planning Officer raises an objection. As the level of occupation associated with a HMO is not considered to be significantly greater than the occupation of the property as a Class C3 dwellinghouse, it is considered that an objection on either highway safety grounds, or car parking standards, could not be sustained on appeal. It should be noted that the property could be occupied by a large family and/or with adult children, each potentially owning a separate vehicle.
- 8.21 The Council's Adopted Parking Standards set out a requirement for C4 HMOs to provide space for the storage of at least 4 bicycles. The property has a rear garden where secure cycle storage could be located. The requirement for cycle storage is recommended to be secured by condition.
- 8.22 Waste
- 8.23 The storage of refuse and recyclable materials would remain unchanged, being located in the forecourt area, and an objection on waste grounds would not form a sustainable reason for refusal.
- 8.24 Impact on Special Protection Areas
- 8.25 Whilst it is acknowledged that there are ongoing issues around the nitrification of the Solent due to increased levels of runoff from residential development, this application is for the change of use of the property from C3 (dwellinghouse) to a flexible C3/C4 use (both would allow up to 6 people), and as such it is not considered to represent an increase in overnight stays. The development would therefore not have a likely significant effect on the Solent Special Protection Areas or result in an increased level of nitrate discharge.
- 8.26 Community Infrastructure Levy (CIL)

- 8.27 The development would not be CIL liable as there would be no increase in the Gross Internal Area of the application property.
- 8.28 Human Rights and the Public Sector Equality Duty ("PSED")
- 8.29 The Council is required by the Human Rights Act 1998 to act in a way that is compatible with the European Convention on Human Rights. Virtually all planning applications engage the right to the enjoyment of property and the right to a fair hearing. Indeed, many applications engage the right to respect for private and family life where residential property is affected. Other convention rights may also be engaged. It is important to note that many convention rights are qualified rights, meaning that they are not absolute rights and must be balanced against competing interests as permitted by law. This report seeks such a balance.
- 8.30 Under section 149 of the Equality Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Further the Council must advance equality of opportunity and foster good relation between those who share a relevant protected characteristic and those who do not. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Having had due regard to the public sector equality duty as it applies to those with protected characteristics in the context of this application, it is not considered that the officer's recommendation would breach the Council's obligations under the Equality Act 2010.
- 8.31 Other Matters raised in the representations
- 8.32 Concerns have been raised by neighbouring residents regarding the pressure the use would put on local services. However, having regard again to the existing lawful use of the property as a self-contained dwellinghouse, it is considered the use of the property would not have a significantly greater impact on local services than the existing use which could be occupied by a similar number of occupants.
- 8.33 While noise from construction work may have an impact on the amenity of neighbours, this is an unavoidable consequence of building work and is not a sufficient reason to withhold Planning Permission. Further work commencing prior to a Permission being granted is not uncommon and is done at the Applicant's own risk.

## 9.0 CONCLUSION

- 9.1 Having regard to all material planning considerations and representations it is concluded that the proposed change of use is acceptable and would be in accordance with the relevant policies of the Portsmouth Plan (2012) and the objectives of the National Planning Policy Framework (NPPF) (2021).

**RECOMMENDATION**                      **Conditional Permission**

### **Conditions**

### **Time Limit:**

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990

**Approved Plans:**

- 2) Unless otherwise agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: PG.8046.23.04 Rev A; and Location Plan

Reason: To ensure the development is implemented in accordance with the permission granted.

**Cycle Storage:**

- 3) Prior to first occupation of the property as a House in Multiple Occupation within Use Class C4, secure and weatherproof bicycle storage facilities for 4 bicycles shall be provided at the site and shall thereafter be retained for the parking of bicycles at all times.

Reason: To ensure that adequate provision is made for cyclists using the premises in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.

**External works:**

- 4) Prior to the occupation of the development hereby approved, the external works as shown on Plan ref: PG.8046.23.04 Rev A, namely the single storey rear extension shall be completed.

Reason: In order to provide an appropriate standard of accommodation for the future occupiers of the site in accordance with Policies PCS20 and PCS23 of the Portsmouth Plan (2012).