



NOTICE OF MEETING

PLANNING COMMITTEE

WEDNESDAY, 15 NOVEMBER 2023 AT 10.30 AM

COUNCIL CHAMBER - THE GUILDHALL, PORTSMOUTH

Telephone enquiries to Democratic Services 023 9283 4056

Email: Democratic@portsmouthcc.gov.uk

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

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, Matthew Atkins, George Fielding, Lewis Gosling, Ian Holder, Mark Jeffery, Steve Pitt, Darren Sanders, Russell Simpson and Daniel Wemyss

(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

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 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 25 October 2023 (Pages 5 - 12)

- 4** **23/01119/FUL 31 Angerstein Road, Portsmouth, PO2 8HL** (Pages 13 - 22)
Change of use from 4 bed/4 person House in Multiple Occupation (Class C4) to a 7 bed/7 person House in Multiple Occupation.
- 5** **23/00704/FUL 53 Kensington Road, Portsmouth, PO2 0DY** (Pages 23 - 32)
Change of use from dwellinghouse to purposes falling within classes C3 (dwellinghouse) or C4 (House in Multiple Occupation).
- 6** **23/00479/FUL 29 Shadwell Road, Portsmouth, PO2 9EH** (Pages 33 - 42)
Change of use from dwellinghouse (Class C3) to purposes falling within Class C3 (dwellinghouse) or Class C4 (House in Multiple Occupation).
- 7** **23/00686/FUL 237 Chichester Road, Portsmouth, PO2 0AN** (Pages 43 - 50)
Change of use from a class C3 dwellinghouse to a 7 bed/7 person House in Multiple Occupation.
- 8** **23/00561/FUL 262 Chichester Road, Portsmouth, PO2 0AU** (Pages 51 - 56)
Change of use from 6-bed/6-person house in multiple occupation to 7-bed/7-person House in Multiple Occupation.
- 9** **23/00905/FUL 73 Margate Road, Southsea, PO5 1EY** (Pages 57 - 62)
Change of use from 6 bed/6 person House in Multiple Occupation to 7 bed/7 person House in Multiple Occupation.
- 10** **23/01136/MMA 17 Military Road Portsmouth PO3 5LS** (Pages 63 - 66)
Minor material amendment to planning permission 21/01182/HOU, with regard to position and size of first floor rear window.

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Agenda Item 3

PLANNING COMMITTEE

MINUTES OF THE MEETING of the Planning Committee held on Wednesday, 25 October 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)
Lee Hunt (Vice-Chair)
Hannah Brent
Peter Candlish
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.

144. Apologies (AI 1)

Councillor Raymond Dent sent his apologies. Councillor Russell Simpson deputised for him.

145. Declaration of Members' Interests (AI 2)

Agenda item 1 - 22/01243/CS3 City Centre North - Councillor Gerald Vernon-Jackson declared a prejudicial interest; he was the Leader of the City Council and the Cabinet Member when this development was being prepared and therefore had a role in the promotion of the scheme..

In response to a question, the Legal Advisor explained that for other members who were involved in developing the Local Plan but were not Cabinet Members and therefore not involved in the scheme's promotion there was no perception of prejudicial interest.

Councillor Lee Hunt declared a non-prejudicial interest; as Cabinet Member for City Development, he had been involved in the work, including consultation, but for the Local Planning Authority rather than the promoter.

Councillor John Smith declared a non-prejudicial interest; prior to being a councillor, he worked for John Lewis and was involved in meetings regarding their potential move to the city centre.

146. Minutes of the previous meeting held on 4 October 2023 (AI 3)

RESOLVED that the minutes of the Planning Committee held on 14 October 2023 be agreed as a correct record.

The running order was changed to:

22/01243/CS3 - City Centre North
23/00442/FUL - 105, Balfour Road
23/00793/HOU - 7, Fawley Road
23/00695/FUL - 63-65, Albert Road
23/00868/FUL - 7, Dersingham Close
23/00958/FUL - 170, Chichester Road
23/00533/FUL - 93, Gladys Road
23757/FUL - 94, Oriel Road

The items will be recorded in the original order, as set out on the agenda.

The supplementary matters report and deputations (which are not minuted) can be viewed on the Council's website at: [Supplementary Matters report - 25 October 2023.pdf \(portsmouth.gov.uk\)](https://www.portsmouth.gov.uk/sites/default/files/2023-10/Supplementary%20Matters%20report%20-%2025%20October%202023.pdf)

147. 22/01243/CS3 Land bound by Hope Street & Church Street Roundabout to the North, Commercial Road (A3) & Lake Road to the East, Charlotte Street to the South and Hope Street to the West (AI 4)

Ian Maguire, Assistant Director for Planning and Economic Development presented the report.

Councillor Russell Simpson left the meeting at 11:05 and returned at 11:20. He took no part in the discussions or voting.

Deputations

Anna Limburn, for the applicant.

Members' Questions.

In response to members' questions, officers clarified that:

- Members can bring any future application for this development to the committee for determination.
- It is important that any future determination is not prejudiced by decisions made at this meeting.
- A mixture of materials will be used.
- There will be extensive consultation on the details by the council.

Members' Comments.

- Residents have expressed frustration at the perceived lack of forward momentum in developing this part of the city.
- It was felt that this development will create one of the most sustainable districts in the country and would improve biodiversity.
- The public and members have stated that they wanted to see better connectivity; this application would join up with the Southeast Hampshire Rapid Transport Scheme and the Public Transport Strategy.

- The government may take planning responsibility away from local authorities if they continue to frustrate planning applications. All the political parties will prioritise house building in the next ten years.
- They welcomed the big opportunity this would bring for St Agatha's and Charles Dickens Birthplace Museum.

RESOLVED that conditional permission be granted as set out in the officer's committee report.

Further matter

A motion was made and agreed that any future application for confirmation with compliance with a condition in respect of approval of external materials (proposed condition 5) relating to buildings in Phase 1 of the development approved under 22/01243/CS3 should be reserved for committee consideration.

RESOLVED that the committee requests future applications under condition 5 relating to phase 1 of 22/01243/CS3 be referred to the planning committee.

148. 23/00695/FUL - 63-65 Albert Road, Southsea Portsmouth PO5 2RY (AI 5)

Ian Maguire, Assistant Director for Planning and Economic Development presented the report and drew attention to the SMAT which contained a letter from Mr. Oliver Hounslow of 1A Chelsea Road. There was no change to the officer's recommendation.

Deputations

Councillor Hugh Mason on behalf of Mr Hounslow against the application.
Mr Steve Lawrence, agent.

Members' Questions.

In response to members' questions, officers clarified that:

- Licensing is a more effective control mechanism regarding the operating hours. It is not unusual for some duplication to exist. The planning officers consulted with the licensing team to get those hours and will follow their lead on those matters.
- Although the rule ensuring a mix of businesses is in the Local Plan, the council has no ability to control town centre use following changes to the national Use Classes Order, so the Local Plan policy is effectively unenforceable.
- Paragraph 125, sub paragraph C of the National Planning Policy Framework highlights the importance of applying flexibility to guidance on daylight and sunlight when looking to make efficiency in land use, with the caveat that it must be an acceptable living environment.
- There is also a variation between existing residents having their light affected and new residents. The latter would know before they move in that their rooms do not have light.
- This flexibility applied as instructed helps tilt the balance, which is already tilted due to the Council's lack of a five-year housing land supply.
- The bedroom sizes are adequate.
- The skylight in bedroom two takes approximately 20% of the floor space.
- As they have no outlook, bedroom 2 and the two rooms labelled storage/ domestic on the plans are not deemed fit to be habitable rooms.

Members' Comments.

- The council used to try to the control mix and uses of shops until it was deregulated by the government.
- The conversion of a shop into a restaurant is permitted.
- The lack of outlook in a bedroom is not acceptable and would set a terrible precedent.
- The noise issues from the restaurant can be regulated in a different way.

The applicant suggested that the dividing wall between rooms one and two could be moved to provide outlook for both rooms.

The Assistant Director for Planning and Economic Development explained that whilst minor amendments could be considered, the proposed variation would be substantial and therefore the committee could only consider the application as it had been submitted. The applicant could apply to vary the application at a future date.

RESOLVED

- 1. 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 necessary to secure the mitigation of the impact of the proposed development on Solent Special Protection Areas (recreational disturbance and nitrates) by securing the payment of a financial contribution.**
- 2. That delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary including a condition limiting the occupation of bedroom 2 and the 2x storage rooms as non-habitable rooms.**
- 3. 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.**

149. 23/00442/FUL - 105 Balfour Road, Portsmouth PO2 0NH (AI 6)

Ian Maguire, Assistant Director for Planning and Economic Development presented the report and drew Members' attention to the Supplementary Matters report that included:

- Amended floor plans which the officer deemed to be extremely minor and do not result in a materially different scheme, but are considered to result in an improvement to the proposal.
- A further letter of objection from Councillor Wemyss.

There was no change to the officer's recommendation.

Deputations

Richard John, against.

David Mugridge, against

Councillor Russell Simpson, against.

Carianne Wells, agent for the applicant

Members' Questions.

In response to members' questions, the officer clarified that:

- Were this application to be granted, the percentage of HMOs within a 50-metre radius would be 2.9%. This would be considerably lower than the 10% threshold above which an area is considered to be imbalanced and in conflict with Policy PCS20.
- All the work is permitted development, or internal works that are not defined as development under s.55 Town and Country Planning Act 1990.
- All the rooms exceed the space standards. There is a separate standard for the housing team to do in terms of layout, furniture etc.
- Property value is not a material planning consideration.
- Parking is a material planning consideration in a number of different factors; the provision of parking is an amenity question.

Members' Comments.

- Portsmouth has one of the toughest regimes in the UK, for regulating HMOs vis. 10% in an area and room size standards.
- Demand for rented accommodation is high.
- The government has deregulated this industry and some properties were over-developed to house too many people and subsequently caused problems for their neighbours.
- The industry did not regulate itself properly and HMOs became stigmatised.
- This property was not intended to accommodate seven people. However, there is no justifiable reason to refuse this application.

RESOLVED that conditional permission be granted as set out in the officer's committee report.

150. 23/00868/FUL - 7 Dersingham Close, Portsmouth PO6 3LE (AI 7)

Ian Maguire, Assistant Director of Regeneration introduced the report.

Deputations

Samuel Cheatle, against

Julie Harman, against

Debbie Gray, against

Dr Tudor Leandru, applicant

Members' Questions.

There were no questions.

Members' Comments.

- Some of the matters raised in the deputations are not material planning considerations.
- The application meets all the required standards.
- The number of HMOs within a 50m radius would be below 10%.
- The area has a number of issues including parking, lack of GP services and anti-social behaviour.

The Assistant Director for Planning and Economic Development advised that the parking standards require 1.5 parking spaces be provided for a 2-3 bedroom house and the same number for a class C3-4 HMO.

RESOLVED that conditional permission be granted as set out in the officer's committee report with the additional condition that the number of residents be limited to five.

151. 23/00958/FUL - 170 Chichester Road, Portsmouth PO2 0AH (AI 8)

Ian Maguire, Assistant Director for Planning and Economic Development introduced the report.

Deputations.

Simon Hill, agent for the applicant.

Members' Questions.

There were no questions.

Members' Comments.

There were no comments.

RESOLVED that conditional permission be granted as set out in the officer's committee report.

152. 23/00533/FUL - 93 Gladys Avenue, Portsmouth PO2 9BB (AI 9)

Ian Maguire, Assistant Director for Planning and Economic Development introduced the report and drew Members' attention to the Supplementary Matters report which included a further letter of objection from Councillor Wemyss. There were no changes to the officer's recommendation.

Deputation.

Simon Hill, agent for the applicant.

The Assistant Director for Planning and Economic Development corrected the depute: the premises does not have planning permission to be used as a class C4 HMO. There is a live application, but it has not yet been determined. The agent has advised that they intend to withdraw that, subject to the hearing of this application.

Members' Questions.

There were no questions.

Members' Comments.

There were no comments.

RESOLVED that conditional permission be granted as set out in the officer's committee report.

153. 23/00793/HOU - 7 Fawley Road, Portsmouth PO2 9QY (AI 10)

The Assistant Director, PCC Regeneration introduced the report.

Deputations

Ashley Black, against.

Councillor Russell Simpson, against.

Members' Questions.

In response to questions, the officer clarified that:

- It has a blended household: a family and a lodger. An inspector has interviewed the residents and is satisfied that its usage falls under a class C3 dwelling.
- A side and rear extension could interfere with light for the neighbouring property by obstructing light from the single storey side extension. Officers are satisfied that this development would not cause an unreasonable loss of light. The side window on the neighbouring property serves a hallway, so while it is affected, it is not an unacceptable amenity impact. The right to light is outside the planning authority's remit and is a civil matter. The new dwelling has no side-facing windows.
- A party wall agreement would need to be set regarding the use of the neighbour's land to gain access; that is a private civil matter.
- It would be possible to build this extension without access to the neighbouring property.
- The removal of the garage and the installation of a front door on the extension would not mean that the dropped kerb would have to be removed.

Members' Comments.

Members expressed concern regarding the substantial loss of light which contravenes PCS23 in terms of amenity for the neighbours.

RESOLVED that conditional permission be granted as set out in the officer's committee report.

154. 23/00757/FUL - 94 Oriel Road, Portsmouth PO2 9EQ (AI 11)

The Assistant Director for Planning and Economic Development introduced the report.

Deputations.

Councillor Russell Simpson, against.

Simon Hill, agent for the applicant.

Members' Questions.

There were no questions.

Members' Comments.

- There is often a demonisation of HMO tenants but there is not much difference between the behaviour of people in class C3 dwelling houses and HMOs.
- The key is to encourage higher standards.
- Portsmouth Landlord Association advises landlords with small HMOs to get rid of them.
- There has been a lack of house building by successive governments.
- HMOs provide affordable accommodation.

RESOLVED that conditional permission be granted as set out in the officer's committee report.

The meeting concluded at 2:30pm

Signed by the Chair of the meeting
Councillor Chris Attwell

Agenda Item 4

23/01119/FUL

WARD: NELSON

31 ANGERSTEIN ROAD PORTSMOUTH PO2 8HL

CHANGE OF USE FROM 4-BED/4-PERSON HOUSE IN MULTIPLE OCCUPATION (CLASS C4) TO A 7-BED/7-PERSON HOUSE IN MULTIPLE OCCUPATION

WEBSITE LINK - [HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=S0B6QZMOKW000](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=S0B6QZMOKW000)

Application Submitted By:

Mrs Carianne Wells
Applecore PDM Ltd

On behalf of:

Mr McLean

RDD: 4th September 2023

LDD: 17th November 2023

1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee due to the number of objections (17).

1.2 The main issues for consideration in the determination of the application are as follows:

- Principle of Development including compliance with policy;
- Standard of living accommodation;
- Impact on the amenities of neighbouring residents and parking;
- Housing Land Supply;
- Impact on the Solent Special Protection Area; and
- Other material considerations.

1.3 Site and surroundings

1.4 The application site is a two storey terraced dwelling with rooms in the roof in a predominately residential area.

1.5 The Proposal

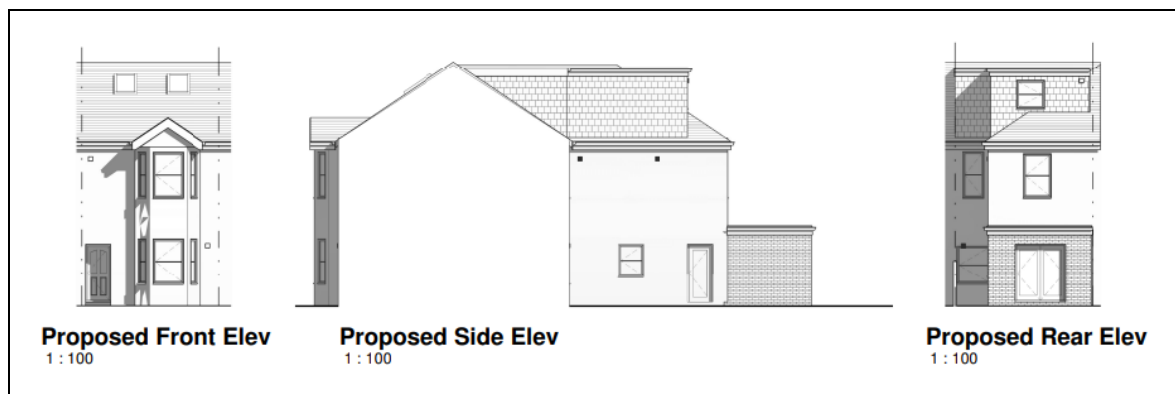
1.6 Applicant has sought planning permission for the change of use of the dwelling from the current lawful use of as a four bed HMO to allow up to 7 individuals to live together as an HMO. It is noted that the property was last occupied as a 4-bedroom HMO and that in order to enable the additional occupation Permitted Development works are yet to be carried out.

1.5 Planning History

1.6 23/00334/CPE: Application for certificate of lawful development for existing use as house in multiple occupation (Class C4). Granted 19.06.2023. Evidence submitted within the certificate showed that the property had been primarily occupied by between 4 unrelated tenants from 2013-2023.

1.7 The applicant proposes a single storey rear extension, rear dormer extension within the main roof and the installation of two rooflights within the front roofslope, as shown in the drawing below, to facilitate the enlargement of the property. The extensions and alterations can be completed under permitted development.

- 1.8 Given that the alterations are considered to be Permitted Development, it is not possible to consider their design or amenity impact as part of this application.



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) include: 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 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.

4.0 REPRESENTATIONS

- 4.1 17 representations have been received raising objection on the following grounds:
- Overdevelopment of the site;
 - Extension is larger than other properties in the area;
 - Enclosure of rear garden by extension;
 - Out of keeping with character of area;
 - Increase in noise;
 - Possible double occupancy of the rooms;
 - Anti-social behaviour;
 - Increase in waste and rubbish;
 - Disruption from the works;
 - Parking concerns;
 - Pressure of local services;
 - Impact of sewer system;
 - Insufficient bin storage;
 - Fire concerns from increased rooms; and
 - More than 3 HMOs within the area.

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

- 5.2 The 'fall back' position

- 5.3 Whether or not the change in occupancy of an HMO amounts to a 'material change of use' resulting in development requiring planning permission is a matter of planning judgement based on the specific circumstance of each case. That judgement will need to assess whether there is some significant difference in the character of the activities from what has gone on previously as a matter of fact and degree. As seen in other applications within this and previous agendas, Officers' view, as demonstrated by the 'Campbell properties' and the 'Lane' appeal decisions is that some changes of use do not necessarily represent development requiring Planning Permission. Therefore, in other cases, the Applicant would benefit from a 'fall-back' position of not requiring Planning Permission. A large number of applications for change in the occupation of a dwelling from a 6 person HMO to a 7 or 8 person HMO have been assessed and, on their own facts Officers have concluded that they do not constitute a material change of use. It can be noted that the Planning Committee has come to a different conclusion.
- 5.4 In this instance a different circumstance falls to be considered when compared to these other cases. The last use of the application property was as a 4 person HMO. The application seeks occupation of the property as an 7 person HMO. This would result in a more significant change in usage which in the Officers view would represent a material change in the use of the property and therefore would require Planning Permission. This is seen through the likely difference in impact that the additional occupants would represent and which is considered to make a significant difference in the character, and scale of the activities resulting from the proposed use. Other, nominally similar, applications changing the occupation from 6 occupants to 7 seven occupants have been found in the opinion of officers to result in insufficiently change to be considered a material change of use. The same conclusion, in material similar circumstances as noted above, has been drawn at six other sites by Inspectors in the 'Campbell Properties' and 'Lane' appeals. Those appeals are material considerations and to draw a different conclusion to that which they might superficially suggest, as is the recommendation of Officers, requires a specific and justified reason.
- 5.5 The majority of the cases within the 'Campbell Properties' and 'Lane' appeals, and those since reviewed by Officers as demonstrated elsewhere on this agenda, involve a change of use from 6 occupants to 7 occupants. Members have previously raised concerns that an increase in occupation has an impact on areas of planning relevance, namely amenity, waste water/nitrates, parking and waste/recycling. Within the 'Lane appeal decisions' the Inspector criticised the Council for failing to provide a sound, substantive and defensible basis for their decision making and felt the assertions made in those decisions were vague and generalised. Consequently Officers have carefully assessed the current application proposal to ensure that the judgement to be applied is specific to the facts and site in question and precise in their formulation.
- 5.6 The change in occupancy in an HMO from 6 people to 7 people is to increase the occupants by 17%. Ostensibly the resultant impact from this additional occupation would proportionately increase by the same percentage. However in reality each case would likely express this change in different ways. The assessment of that change can sensibly be done with reference to headings highlighted by the Planning Committee in similar applications. For example it is Officers conclusion that an increase of 1 additional occupant (+17%) cannot be evidenced to have any demonstrable impact on amenity when viewed externally. The total number of movements to and from the property, the likelihood of noise and anti-social behaviour and the day to day activity within the dwelling, while increasing by 17% would be arguably objectively imperceptible to neighbours and passers-by. Similarly the increase in waste water from an additional occupant would have an insignificant impact on the water management and disposal. While, in combination with all other increases in waste water within the catchment of the relevant Waste Water Treatment Works (Budds Farm), this can be considered to have a cumulative impact on eutrophication within the Solent Waters that precautionary and cumulative assessment is relevant only in respect of the specific Habitats Regulation assessment which is only engaged if a need for planning permission is established. Consequently the impact on waste water and nitrates from adding a single additional occupant to an HMO is not

considered to demonstrate a material change in the use of that dwelling. When looking at parking implications it becomes even more challenging as the parking demand/stress resulting from occupants varies not just on the number of individuals but on accessibility to alternative modes of transport, personal mobility issues, personal economic circumstances and individual choice. When considering all those factors, especially noting that occupants of HMOs are likely to be in the lowest economic bracket for private rented accommodation, it is again considered unlikely that the minimal, 17%, increase in occupancy would result in a demonstrable implication for parking availability within any given area. In respect of waste and recycling it is however more straightforward. Councils have a good understanding of the demands of different household types and sizes in respect of waste capacity as this is used to provide bins for both recycling and residual waste and to consequently manage the amount of waste collected. In Portsmouth a 6 bed HMO is provided with 720 litres of bin capacity, usually in the form of a single 360l bin for recycling and a single 360l bin for residual waste. More, but smaller bins equivalent to the same capacity can of course be provided as an alternative if the nature of the property requires it. A 7 bed HMO is provided with exactly the same 720 litre amount. Consequently while an individual bin may be more full on collection day there is considered to be no likely difference between a 6 and 7 bed HMO in respect of waste that would be externally apparent.

- 5.7 It is therefore necessary to compare these factors, which have lead Officers to conclude many changes in occupancy from 6 to 7 do not constitute a material change of use, to the facts of the current application, which seeks a change in occupancy from 4 occupants to 7 occupants.
- 5.8 When considering the impact on amenity it is noted that the change in occupation will increase 60%, from 4 to 7, compared to the insignificantly assessed 17%. However there is no evidence that a more intensely used HMO is likely to generate more complaints, regarding noise and anti-social behaviour, than a smaller HMO. This point was examined in the 'Campbell Properties' appeal inquiry. It is of course also to be noted that such amenity impacts will be far more greatly influenced by the nature of individual tenants than the nature/scale of the property albeit the two factors cannot be entirely disentangled. Overall however and notwithstanding that the occupation is proposed to increase by 60% Officers are of the opinion that there is no specific evidence or likelihood that this increase will lead to a significant difference in the character or impact of the use in respect of amenity.
- 5.9 As noted above while the increase in waste water, and nitrates, will have a directly proportionate increase based in the additional occupants the relevance of this only occurs if planning permission is found to be needed and consequently it provides little direct evidence as to that question itself.
- 5.10 Parking demand/stress is however considered to be more likely in the application scenario, increasing occupancy from 4 to 7. While adding a single occupant, likely on lower income is considered very unlikely to have a significant impact on the parking demands in an area, the addition of 3 occupants, the equivalent occupation of an average family dwelling, is considered to be far more likely to result in an increased likelihood of parking stress. It is noted that the application site is located, within easy walking distance of facilities and bus routes at the North End District Centre, however the 60% increase in occupation is, notwithstanding this, considered to lead to a likely associated increase in car ownership and associated identifiable impact on parking amenity and availability.
- 5.11 In respect of waste and recycling, as noted above, an increase in a single occupant is unlikely to result in any demonstrable, externally identifiable impacts, as it would not normally require any addition bin capacity to be provided. However in the application scenario, increasing from 4 occupants to 7 the Council's Waste Service Team have been consulted on the application and they have confirmed that the required capacity would have to be significantly increased. A 4 bed HMO has a capacity need of 480 litres (normally 1 x 240l bin for recycling, and 1 x 240l bin for residual waste). A 7 bed HMO has

a capacity need of 720 litres (normally 1 x 360l bin for recycling, and 1 x 360l bin plus). This is a 50% increase in capacity. The slight disproportionality of this increase is due to the availability of different wheelie-bin sizes.

5.12 It is therefore considered that the given the above, the change of use in this instance is fundamentally different to the existing 4 bed HMO use and is distinguishable to the above appeals and distinct from previous applications presented to the Planning Committee. The proposal is considered to be a material change of use constituting development requiring planning permission and does not benefit from a fall-back position to the contrary. It falls therefore to be assessed against the policy of the Local Plan.

5.13 Principle

5.14 The HMO SPD has been published to provide a tool for addressing the recognised impacts that HMO's may have in Portsmouth, most notably in relation to the residential amenity, both for occupiers of HMO's and neighbouring properties and housing mix of certain communities. Two of the key matters of principles explained in the HMO SPD are the assessment of housing mix to ensure balanced communities and the application of minimum room sizes, reflecting those in force as part of the private sector housing licencing regime, to ensure an appropriate living environment for future residents.

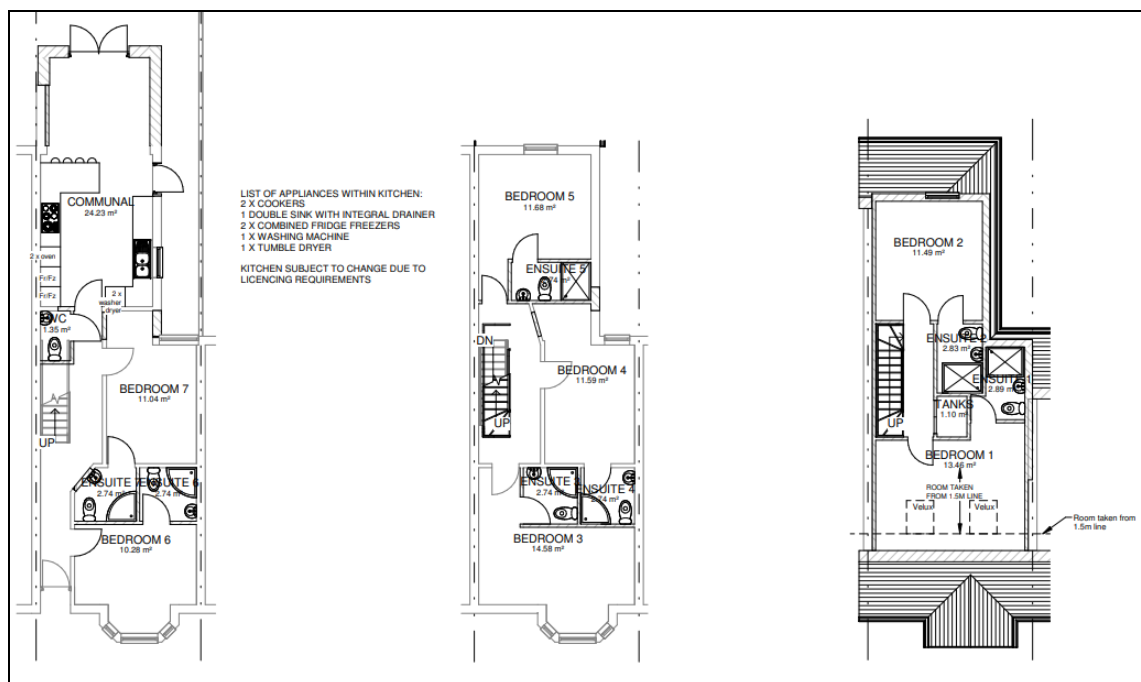
5.15 In this case the application site is already in lawful use as an HMO and the application has been made to recognise the intention to increase its occupation by 3 occupants. As such the application is not considered, on its individual facts to create any material impact on the balance of the community in the area. The HMO SPD suggests a threshold of 10% of dwellings in any area of 50m radius as a maximum proportion of HMO dwellings to C3, single household, dwellings. As the increase in occupancy does not change this mix of dwellings the proposal has no impact on this primary guidance. For reference, it can be noted however that the relevant 50m radius area is currently made up of 4 HMOs out of 58 properties, a percentage of 6.89%. This proposal of course has no effect on that headline percentage. The application does of course increase the number of HMO residents in an area that would already be considered to have a concentration of HMOs. A judgement needs to be made whether the addition of 3 HMO residents into this existing imbalanced community would result in a potential harm to the amenity of that community, as guided by paragraph 2.3 of the Council's SPD for HMOs. The assessment of that harm is considered below. The HMO SPD also described 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. As this proposal does not involve the creation of a new HMO these considerations are not brought into effect.

5.16 Standard of living accommodation

5.17 The repurposing of internal rooms to accommodate the additional occupants within this proposal will have an effect on the ratio of communal/amenity space compared to private bedroom space available internally for future occupants. While this matter will also be considered as part of the necessary licensing of the HMO by the Private Sector Housing team under the Housing Act, the HMO SPD identifies this as a consideration as part of the assessment of whether a good standard of living environment is provided for future residents as required by Local Plan Policy PCS23. 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:	Size provided for in Guidance:
Bedroom 1	13.46m ²	6.51m ²
Bedroom 2	11.49m ²	6.51m ²
Bedroom 3	14.58m ²	6.51m ²
Bedroom 4	11.59m ²	6.51m ²

Bedroom 5	11.68m ²	6.51m ²
Bedroom 6	10.28m ²	6.51m ²
Bedroom 7	11.04m ²	6.51m ²
Combined Living Space	24.23m ²	22.5m ² where all bedrooms are above 10m ²
Ensuite B1	2.89m ²	2.74m ²
Ensuite B2	2.83m ²	2.74m ²
Ensuite B3	2.74m ²	2.74m ²
Ensuite B4	2.74m ²	2.74m ²
Ensuite B5	2.74m ²	2.74m ²
Ensuite B6	2.74m ²	2.74m ²
Ensuite B7	2.74m ²	2.74m ²
WC	1.35m ²	1.17m ²



5.19 As is shown in the table above, the proposal results in an internal layout, which due to the size of the communal living space does not meet the guidance provided to describe a satisfactory standard of living environment (34m²). However, the HMO SPD, at para 2.6, advises that more detailed guidance, beyond these headline requirements should be referred to within the Council's standards for Houses in Multiple Occupation Guidance (September 2018). This more detailed guidance applies lower minimum requirements (of 22.5m²) for combined living accommodation in circumstances where all bedrooms are at least 10m² and the accommodation is otherwise acceptable as communal space. On the basis of the information supplied with the application this detailed guidance is considered applicable and the resulting layout is considered to result in a satisfactory standard of living environment.

5.20 Amenity and Parking

5.21 The proposal would increase the occupancy of the existing HMO by 3 occupants. While as noted above this would have a proportionate increase in activity within and coming and going from the property this increase in the number of residents is not considered likely to have any demonstrable adverse effect on residential amenity for neighbours of the surrounding area.

5.22 While the increase of occupants is considered to have some impact on the parking need and thus parking availability in the wider area, it is noted that the Council's adopted Parking Standards, within the associated SPD has the same expectation for the number

of parking spaces, 2 spaces per dwelling, for any scale of HMO with 4 or more bedrooms. On balance Officers are satisfied that the minor increase in likelihood of parking demand while identifiable is unlikely to be so significantly harmful to parking amenity and availability to warrant refusal of planning permission.

5.23 Housing Land Supply

5.24 The Committee's attention is drawn to the current 5 year housing land supply position within Portsmouth. In any planning application, the decision-maker will need to 'balance' any harms identified due the development against any benefits also arising. Principally, for this HMO application, the benefits are to the provision of housing through the provision of additional bedspace of occupation within the HMO. While this is a small contribution to the overall housing stock, the Council currently is unable to identify a 'five year supply' of housing, with only a 2.9 year supply currently identifiable. In this circumstance, the Council is directed to consider that the policies which are most important to determinations associated with housing provision within the Local Plan are out of date. The consequence of this is that decision takers are directed to apply a tilted balance to determinations so that permission is only withheld when the adverse impacts '*...significantly and demonstrably outweigh the benefits...*'. Any harm associated with the increase in occupancy in this area are considered to be insignificant and therefore fall short of being able to significantly and demonstrably outweigh even the small benefit to the city's housing stock of the provision of bedspaces, should such assessment be considered necessary.

5.25 Impact on Special Protection Areas

5.26 As the increase in occupancy from a 4 person HMO to 7 persons HMO is considered to warrant planning permission the provisions of the Habitat Regulations are engaged and 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 is in accordance with the advice from Natural England.

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

5.28 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.

5.29 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.

5.30 Other Matters

5.31 In addition to comments raised by third parties in respect of the planning merits considered above, some representations have raised matters that are not material

considerations, these include anti-social behaviour (addressed by the Police) if such behaviour to occur, disruption during works (if disturbance was above a reasonable level Environmental Health abatement notices could be considered), Fire Safety (Building Control and Licensing) and impact to the sewer system (a matter for the Statutory Water Authority - any new connections would need consent).

6.0 CONCLUSION

6.1 Having assessed the likely significant difference in the nature and implications of the change in occupation it is considered that the change in use is material and requires planning permission. Having regard to all material planning considerations, including the current 5 year land supply within the City and the 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) (2023).

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 necessary to secure the mitigation of the impact of the proposed 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: Location Plan - 101 Oxford Road; Proposed Ground Floor; Proposed Elevations and Section; and Proposed First and Second Floors.

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.

External Alterations

4) Prior to first occupation of the property as a House in Multiple Occupation, the external alterations as shown on Plans Ref: PG.8049.23.0.05 rev A shall be completed.

Reason: To ensure that proposed layout is acceptable for the intended number of occupiers in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.

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Agenda Item 5

23/00704/FUL

WARD:COPNOR

53 KENSINGTON ROAD PORTSMOUTH PO2 0DY

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

WEBSITE LINK - [23/00704/FUL | Change of use from dwellinghouse to purposes falling within Classes C3 \(dwellinghouse\) or C4 \(House in Multiple Occupation\) | 53 Kensington Road Portsmouth PO2 0DY](#)

Application Submitted By:

Mrs Carianne Wells
Applecore PDM Ltd

On behalf of:

Dr Taylor

RDD: 9th June 2023

LDD: 7th August 2023

1.0 SUMMARY OF MAIN ISSUES

- 1.1 This application is brought before Planning Committee due to the number of objections (8) including one from Councillor Wemyss who has called this application to committee.
- 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;
 - 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 western side of Kensington Road. The dwellinghouse is set back from the road where there is a boundary fence and a pathway to the front entrance and a single garage door in the ground floor elevation. To the rear of the property is an enclosed garden. The existing layout comprises of a garage, kitchen, WC, lounge 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, there are a variety of styles of properties in the area which are predominantly two-storey.

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.
- 3.2 The Applicant intends to construct the single storey rear extension (see planning history) and a rear dormer extension (under permitted development), as shown in the drawing below, to facilitate the enlargement of the property before undertaking the proposed change of use. The extensions and alterations can be completed under permitted development regardless of whether the property is in Class C3 or C4 use.
- 3.3 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 as part of this application. There would be no 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.

4.0 PLANNING HISTORY

- 4.1 In 2023 application 23/00023/GPDC was submitted for construction of single storey rear extension extending 6m from the rear wall, with a maximum height of 3m and 2.8m to the eaves. This was a prior approval application. It was determined that prior approval was not required on 9th May 2023.

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.

- 6.2 Highways - No objection, subject to condition for cycle parking. Proposal would not have a material impact. Parking Standards SPD requirement is for two parking spaces, which is the same as for C3 with four or more bedrooms.

7.0 REPRESENTATIONS

- 7.1 Eight representations have been received objecting to the proposed development, including one from Councillor Wemyss who has requested that this application is called to committee.

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

- a) Parking
- b) Amenities
- c) Noise/disturbance
- d) Waste/ refuse
- e) Strain on local services
- f) Antisocial behaviour
- g) Loss of parking space due to removal of garage at property
- h) Pedestrian safety
- i) Residential amenity
- j) Drainage/ sewage
- k) Utilities not designed for this level of use.
- l) Too many HMO's
- m) Increase of visitors to the property
- n) Loss of property value
- o) Impact to health
- p) Construction noise

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

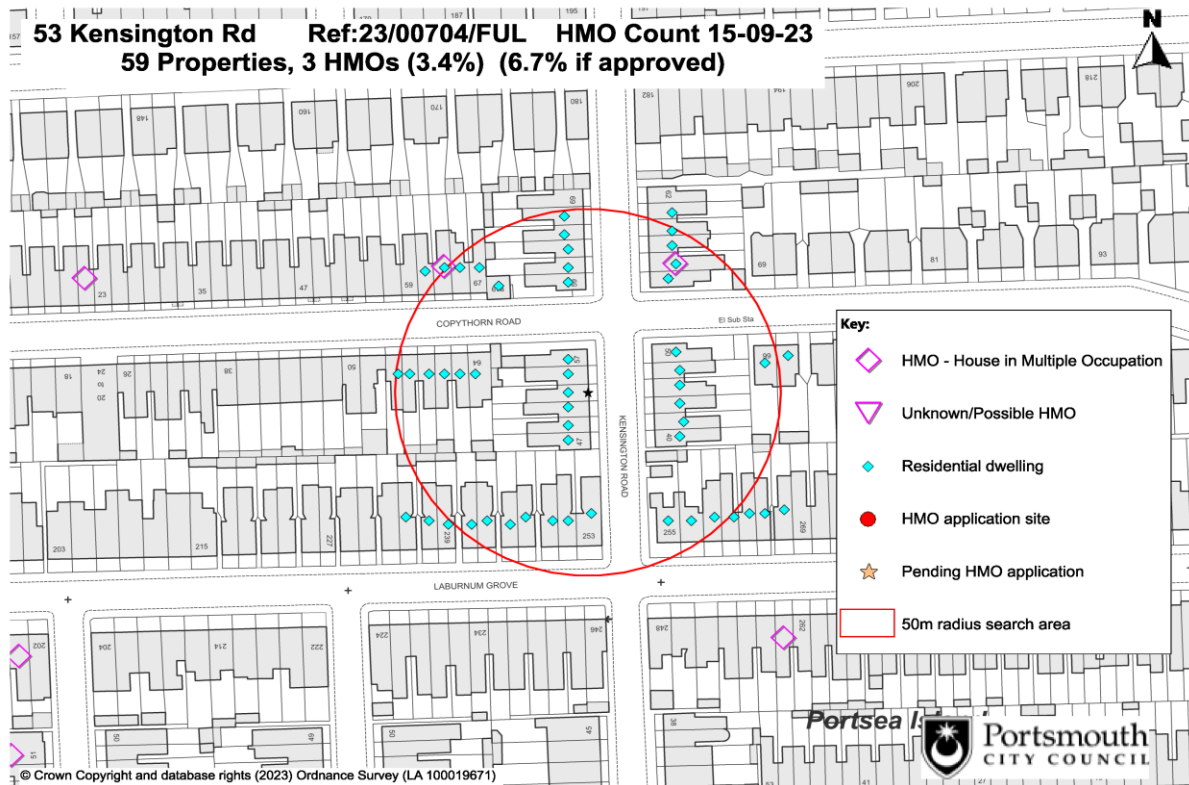
- 8.3 Permission is sought for the use of the property for purposes falling within Class C3 (dwellinghouse) to Class C4 (house in multiple occupation) (HMO). The property currently has a lawful use as a self-contained dwelling (Class C3). For reference, a Class C4 HMO is defined as '*a property occupied 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 59 properties within a 50-metre radius of the application site, there are only 2 confirmed HMOs (Class C4) at 54 Kensington Road and 63 Copythorn Road as shown 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 6.7% if approved. This would be lower than the 10% threshold above which an area is considered to be imbalanced and in conflict with Policy PCS20.



Existing HMOs within 50m of the application site

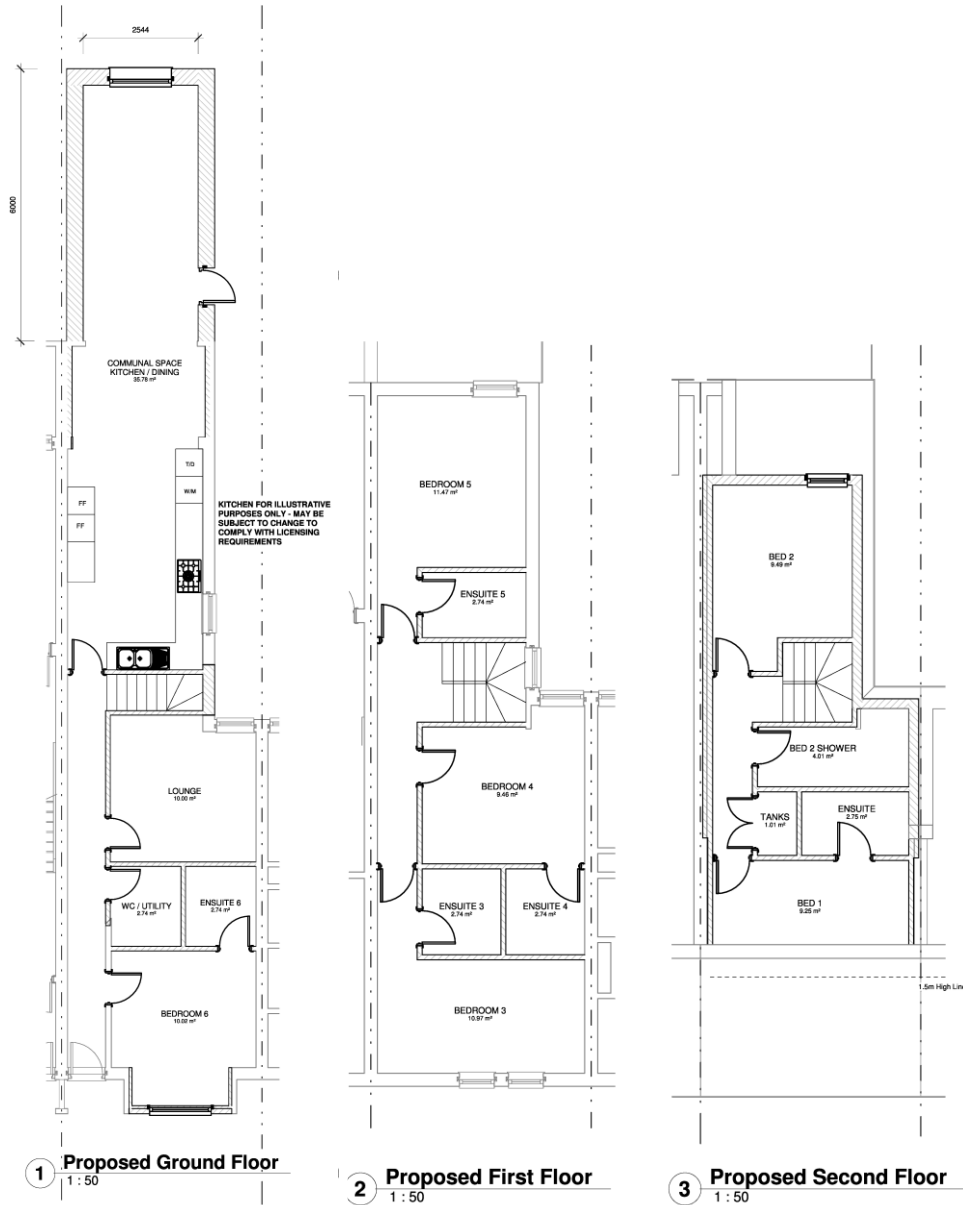
8.7 A further policy strand introduced in July 2018, amended in October 2019, seeks to ensure that the amenity and standard of living environment of neighbours and local occupiers is protected. This is explained within Appendix 6 of the HMO SPD, which references the specific proximity of HMOs to adjacent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

Room	Area Provided	Required Standard
Bedroom 1 (second floor)	9.25m ²	6.51m ²
Bedroom 2 (second floor)	9.49m ²	6.51m ²
Bedroom 3 (first floor)	10.97m ²	6.51m ²
Bedroom 4 (first floor)	9.46m ²	6.51m ²
Bedroom 5 (first floor)	11.47m ²	6.51m ²
Bedroom 6 (ground floor)	10m ²	6.51m ²
Ground floor shared wc	2.74m ²	1.17m ²
Living room (ground floor)	10.m ²	Unrequired/additional
Communal Kitchen/Dining area (ground floor)	35.78m ²	34m ² , or 22.5m ² if all bedrooms meet or exceed 10m ²
Ensuite bathroom 1 (second floor)	2.75m ²	2.74m ²
Bathroom 2 (second floor)	4m ²	2.74m ²
Ensuite bathroom 3 (first floor)	2.74m ²	2.74m ²
Ensuite bathroom 4 (first floor)	2.74m ²	2.74m ²
Ensuite bathroom 5 (first floor)	2.74m ²	2.74m ²
Ensuite bathroom 6 (ground floor)	2.74m ²	2.74m ²



8.11 All of the rooms 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.

8.12 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 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 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 three within a 50m radius) would not have any demonstrable adverse impact to wider amenity.
- 8.16 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.
- 8.17 Highways/Parking
- 8.18 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.
- 8.19 The existing garage, which is below the size standard that may be expected for a usable garage within current guidance (and therefore does not count as a parking space for the purposes of calculations) could be converted to a habitable room without the need for planning permission. The conversion of the garage and thus the reduced demand for vehicular access to the property may increase the provision of on street parking in due course, all be it this is not part of the application as the dropped curb and gates may be retained, and cannot therefore be attributed weight in the determination of the application.
- 8.19 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 (noting the existing use, permitted development allowances, and the flexible use applied for), 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.
- 8.20 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.

8.21 Waste

- 8.22 The storage of refuse and recyclable materials would be located in the forecourt area, it is considered that the increase in waste/ refuse would be similar for a larger family living at the same property, or for an HMO use, and can be readily accommodated within the forecourt area, and an objection on waste grounds would not form a sustainable reason for refusal.

8.23 Impact on Special Protection Areas

- 8.24 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 C3 or 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.

8.25 Community Infrastructure Levy (CIL)

- 8.26 The development would not be CIL liable as it would not increase in the Gross Internal Area of the application property by more than 100m².

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

- 8.28 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.

- 8.29 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.

8.30 Other Matters raised in the representations

- 8.31 In addition to the matters set out within the planning assessment above, concerns have been raised by neighbouring residents in respect of other matters that are not material to the consideration of a planning application:

- The loss of property value is not a material planning consideration.
- Matters of undue noise and disturbance, beyond what may be considered reasonable would be a matter for Environmental Health through an abatement notice.
- Matters of antisocial behaviour would be addressed through the Police
- Matters of sewage connections or infrastructure works are matters for the Statutory Water Undertaker. The proposal would not have a material strategic impact that could substantiate a reason for refusal.

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) (2023).

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.

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; PG8040-23-2 - Dual Use 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.

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Agenda Item 6

23/00479/FUL

WARD:HILSEA

29 SHADWELL ROAD PORTSMOUTH PO2 9EH

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

WEBSITE LINK - 23/00479/FUL | Change of use from dwellinghouse (Class C3) to purposes falling within Class C3 (dwellinghouse) or Class C4 (house in multiple occupation) | 29 Shadwell Road Portsmouth PO2 9EH

Application Submitted By:

Mr Kercher
incollective.works

On behalf of:

Kingshott

RDD: 18th April 2023

LDD: 18th July 2023

1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee due to the number of objections (14) including one from Councillor Simpson who has called this application to committee.

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;
- Parking;
- Waste;
- Amenity impacts upon neighbouring residents;
- Impact upon the Solent Protection Areas; and
- Any other raised matters.

1.3 Site and Surroundings

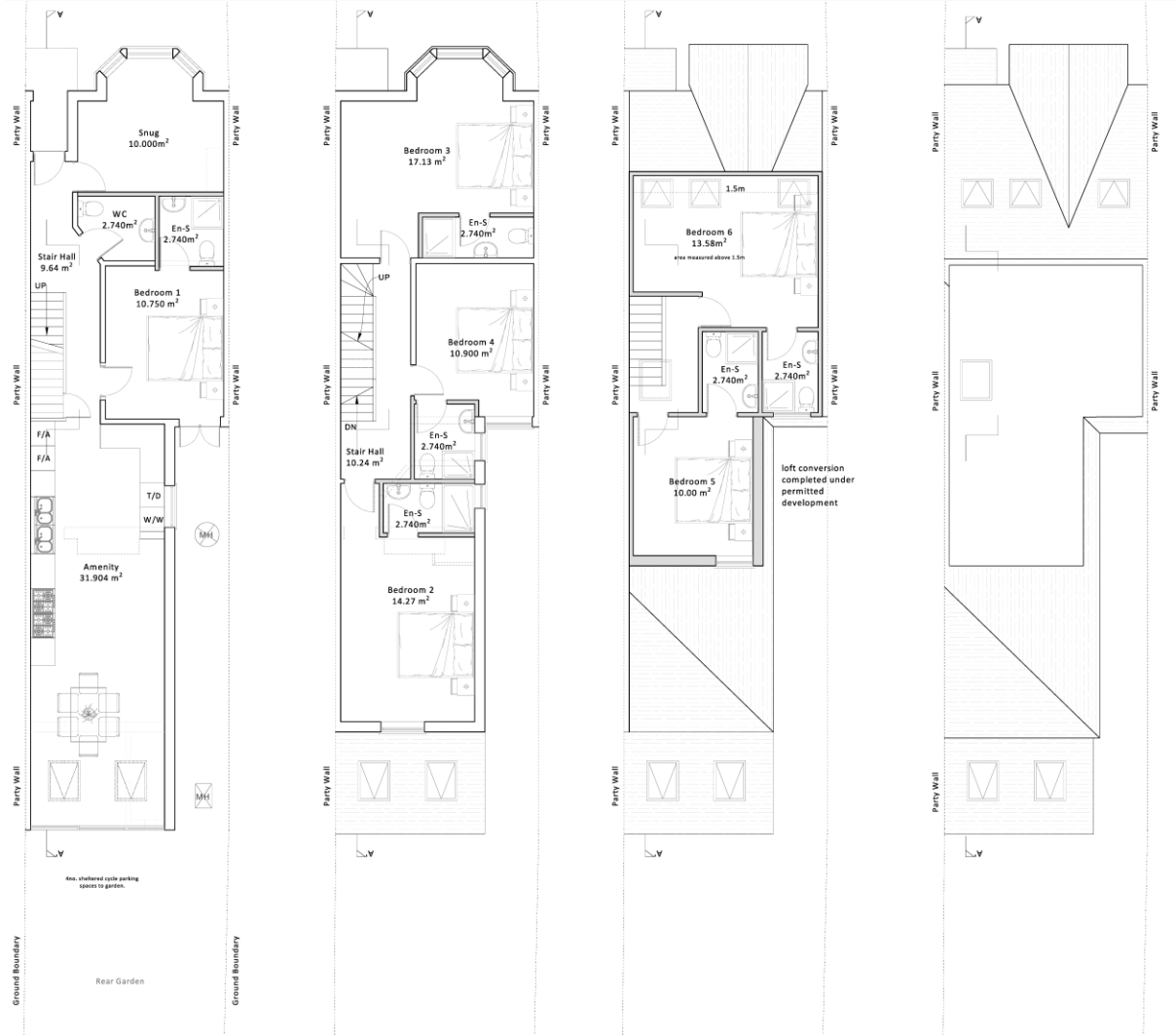
1.4 The application relates to a two-storey, mid-terrace dwellinghouse (Class C3) located on the southern side of Shadwell Road. The dwellinghouse is set back from the road by a small front forecourt and to the rear of the property is an enclosed garden. The existing layout comprises of a lounge, bedroom, kitchen, dining room, conservatory and wc at ground floor level; three bedrooms, a bathroom and wc at first floor level.

1.5 The application site is within a predominantly residential area, there are a variety of styles of properties in the area which are predominantly two-storey. Eight of the properties within the 50m radius have been subdivided into flats.

1.6 The Proposal

1.7 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.

Proposed Floor Plans



Proposed Elevations



1.8 The applicant has constructed the rear dormer extension and rear replacement extension under permitted development, as shown in the drawing above, to facilitate the enlargement of the property. Such extensions and alterations can be completed under permitted development regardless of whether the property is in Class C3 or C4 use.

1.9 Given that 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 as part of this application or extension. There would be no 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.

1.10 Planning History

1.11 No planning history.

2 POLICY CONTEXT

2.1 Portsmouth Plan (2012)

2.2 In addition to the aims and objectives of the National Planning Policy Framework (2023), 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).

2.3 Other Guidance

2.4 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').

3 CONSULTATIONS

3.1 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.

3.2 Highways - Shadwell Road is a residential road with parking accommodated through unrestricted on street parking. The demand for parking on street appears high, particularly in the evenings and weekends. No traffic assessment provided however given the small scale of the development, satisfied the proposal would not have a material impact upon the function of local highway network.

Portsmouth City Councils 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 is noted that the expected level of parking demand for a Class C3 dwellinghouse with four or more bedrooms (which would occur with the permitted development extensions) would also be for 2 off-road spaces.

A condition requiring adequate cycle storage is required.

4.0 REPRESENTATIONS

4.1 Fourteen representations (from eleven addresses) have been received objecting to the proposed development, including one from Councillor Simpson who has requested that this application is called to committee.

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

- a) Parking
- b) Amenities
- c) Noise
- d) Waste
- e) Overlooking
- f) Privacy
- g) Overdevelopment of HMOs in the area
- h) No planning permission for the rear ground and roof extension
- i) Increase of number of bathrooms
- j) Loss of community cohesion
- k) Overloaded sewage system
- l) Fire hazard
- m) Additional pressure on utilities
- n) Issues with water pressure
- o) Over crowding to the property and to the street
- p) Effect of room size on mental health
- q) Foundations not deep enough
- r) HMO count/ Database out of date
- s) Negative effect on property values

5.0 COMMENT

5.1 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

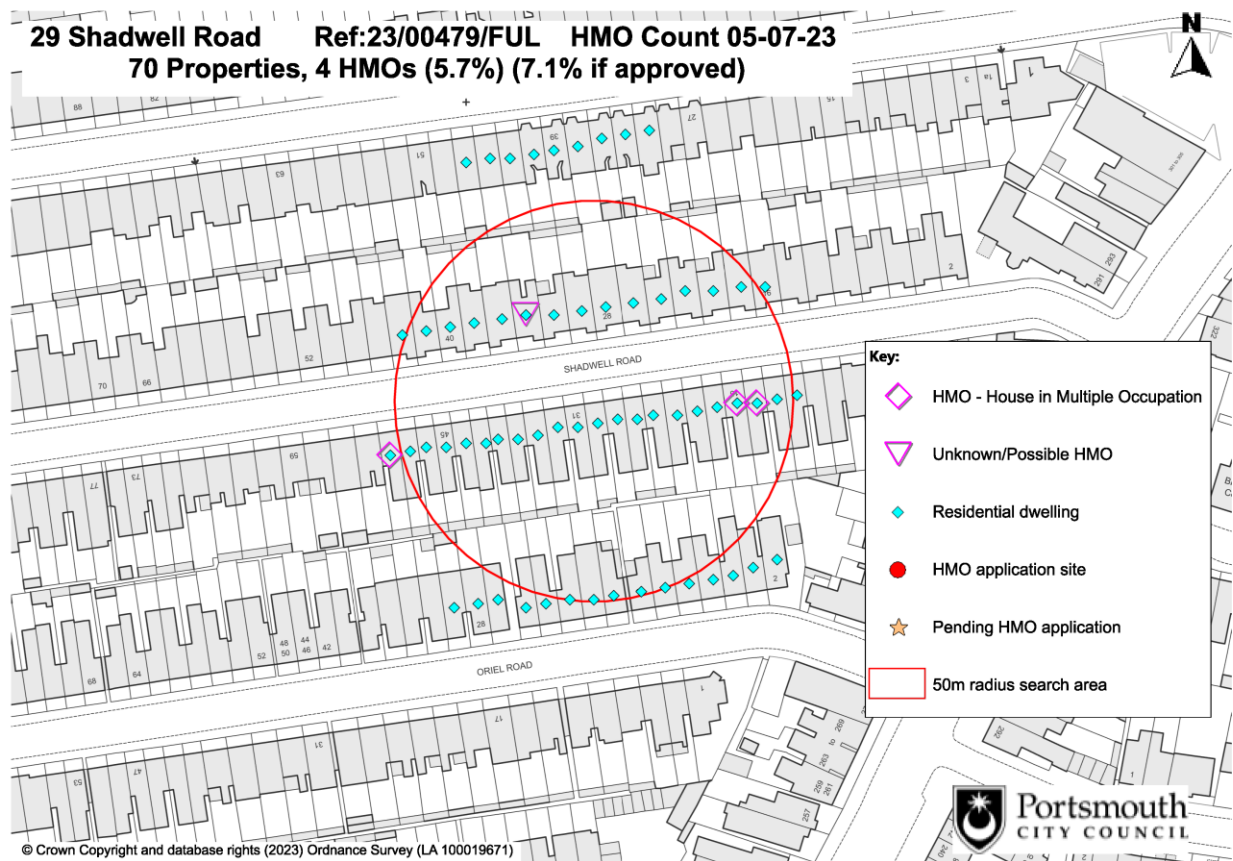
5.2 Principle of development

5.3 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*'.

5.4 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.

- 5.5 Based on the information held by the City Council, of the 70 properties within a 50-metre radius of the application site, there are only 3 confirmed and 1 unconfirmed HMOs (Class C4) at 13, 15, 34 (unconfirmed) and 51 Shadwell Road as shown 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.
- 5.6 Including the application property, the proposal would bring the percentage of HMOs within the area up to 7.1%. This would be lower than the 10% threshold which is considered to comply with Policy PCS20.
- 5.7 In addition, application 23/00182/FUL at 16 Shadwell Road is pending consideration. This has not been determined, but for context, if it and the application property were approved this would be 6 of 70 properties (8.6%).



Existing HMOs within 50m of the application site

- 5.7 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.

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

5.9 Standard of accommodation

5.10 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 below.

Room	Area Provided	Required Standard
Bedroom 1 (ground floor)	10.75m ²	6.51m ²
Bedroom 2 (first floor)	14.27m ²	6.51m ²
Bedroom 3 (first floor)	17.13m ²	6.51m ²
Bedroom 4 (first floor)	10.9m ²	6.51m ²
Bedroom 5 (second floor)	10m ²	6.51m ²
Bedroom 6 (second floor)	13.58m ²	6.51m ²
Ground floor shared wc	2.74m ²	1.17m ²
Living room (ground floor)	10.m ²	Unrequired/additional
Communal Kitchen/Dining area (ground floor)	31.9m ²	22.5m ² as all bedrooms meet or exceed 10m ²
Ensuite bathroom 1 (ground floor)	2.74m ²	2.74m ²
Ensuite bathroom 2 (first floor)	2.74m ²	2.74m ²
Ensuite bathroom 3 (first floor)	2.74m ²	2.74m ²
Ensuite bathroom 4 (first floor)	2.74m ²	2.74m ²
Ensuite bathroom 5 (second floor)	2.74m ²	2.74m ²
Ensuite bathroom 6 (second floor)	2.74m ²	2.74m ²

5.11 All of the rooms 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.

5.12 Impact on neighbouring living conditions

5.13 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.

5.14 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, although representations have been received listing properties that are considered to be HMOs by third parties, these have been checked, and are those those identified within the 50m radius above, the application site, number 16 (pending) as discussed above, or, frequently are flats, or homes with care provision. Therefore, given that there is not an over-concentration of HMOs within the 50m radius, it is considered that the impact of one further HMO would not be significantly harmful.

- 5.15 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.
- 5.16 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.
- 5.16 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.
- 5.17 Highways/Parking
- 5.18 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. The expected level of parking demand for a Class C3 dwellinghouse with three bedrooms (as was prior to the permitted development works) is 1.5 off-road spaces. The property has no off-street parking.
- 5.19 The C4 element of the proposal compared to the existing property only expects an extra half a parking space, this is considered acceptable in this instance. 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.
- 5.20 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 submitted plans show the cycle storage will be located in the rear garden. The requirement for cycle storage is recommended to be secured by condition.
- 5.21 Waste
- 5.22 The storage of refuse and recyclable materials would remain unchanged, being located in the front garden area, and an objection on waste grounds would not form a sustainable reason for refusal.
- 5.23 Impact on Special Protection Areas
- 5.24 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.

5.25 Community Infrastructure Levy (CIL)

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

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

5.28 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.

5.29 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.

5.30 Other Matters raised in the representations

5.31 Concerns have been raised by neighbouring residents that have been considered and assessed within the report, the following matters raised are not material planning considerations;

- Property values are not a material planning consideration.
- Matters related to fire safety, foundation depths, any additional connections/works to sewage system, water pressure, and other utilities are addressed through other controls including Licencing, Building Control, and the Water Industries Act. Planning does not replicate the controls of other legislation.

6.0 CONCLUSION

6.1 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.

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: Floorplans -; Side Elevations -; and Elevations and Sections

PL01

PL02

PL03

PL04 rev A

PL05 rev A

PL06 rev A

PL07

PL08

PL09 rev A

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 extensions as shown on the approved plans, namely the single storey replacement rear extension and the dormer window 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).

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Agenda Item 7

23/00686/FUL

WARD: COPNOR

237 CHICHESTER ROAD, PORTSMOUTH, PO2 0AN.

CHANGE OF USE FROM A CLASS C3 DWELLINGHOUSE TO A 7-BED/7-PERSON HOUSE IN MULUPLE OCCUPATION

WEBSITE LINK - 23/00686/FUL - CHANGE OF USE FROM A CLASS C3 DWELLINGHOUSE TO A 7-BED/7-PERSON HOUSE IN MULUPLE OCCUPATION

Application Submitted By:

Mrs Carianne Wells of Applecore PDM Ltd.

On behalf of:

Mr Paul Parham

RDD: 15th June 2023

LDD: 8th August 2023

1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee due to an objection (and Call-in) from Councillor Wemyss and an objection 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 matters raised.

2.0 SITE AND SURROUNDINGS

2.1 The application relates to a two-storey, mid-terrace dwellinghouse (Class C3) located on the north side of Chichester Road. The dwellinghouse is set back from the road by a small front forecourt and to the rear of the property is an enclosed garden and a rear outbuilding. The existing layout comprises of a lounge, kitchen/dining, conservatory and WC 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.

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) (Sui Generis) use with up to seven individuals living together.

3.2 The proposed internal accommodation, comprises the following:

- Ground Floor - Two bedrooms (each with a shower, toilet and handbasin ensuite), Lounge, Kitchen/Dining, W/C and handbasin;
- First Floor - Three bedrooms (each with a shower, toilet and handbasin ensuite); and
- Second Floor - Two bedrooms (each with a shower, toilet and handbasin ensuite).

3.3 The Applicant has planning approval (21/01388/FUL) for change of use from a dwelling house (Class C3) to purposes falling within Class C3 (Dwellinghouse) or Class C4 (House in Multiple Occupation) for six persons. That planning permission included permitted development works for a dormer and rear extension.

3.4 Permitted development works are part of this proposal, the main difference is that the ground floor layout now proposes an additional bedroom from the previous consented scheme, facilitated by a narrower rear extension providing a window and means of escape, and the communal area within the extension becoming narrower but longer, under permitted development. Works to deliver the permitted development extensions have commenced at site and were evident during the Case Officer visit. These have now been completed externally, but are not substantially complete internally.



4.0 PLANNING HISTORY

4.1 (21/01388/FUL) Change of use from dwelling house (Class C3) to purposes falling within Class C3 (Dwelling House) or Class C4 (House in Multiple Occupation). Conditional permission granted in December 2021.

5.0 POLICY CONTEXT

5.1 Portsmouth Plan (2012)

5.2 In addition to the aims and objectives of the National Planning Policy Framework (2023), 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 (revised 2023)
- The Parking Standards and Transport Assessments Supplementary Planning Document (2014)
- The Solent Recreation Mitigation Strategy (2017)
- The 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 this property would require to be licenced under Part 2, Housing Act 2004.

6.2 Highways Engineer - no objection. 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 1.5 vehicle spaces and 2 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 materially unchanged. Cycle store is outlined within the rear garden and therefore a suitable worded condition should be attached to secure prior to occupation.

7.0 REPRESENTATIONS

7.1 4 representations have been received from 4 properties, objecting to the proposed development, including one from Councillor Wemyss and one from Councillor Swann.

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

- a) Strain on doctors and dental surgeries;
- b) Lack of car parking provision leading to an increase in traffic and exacerbation of existing on-street parking on yellow lines;
- c) Loss of family home and eventual closure of schools without families and children moving into the area.

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

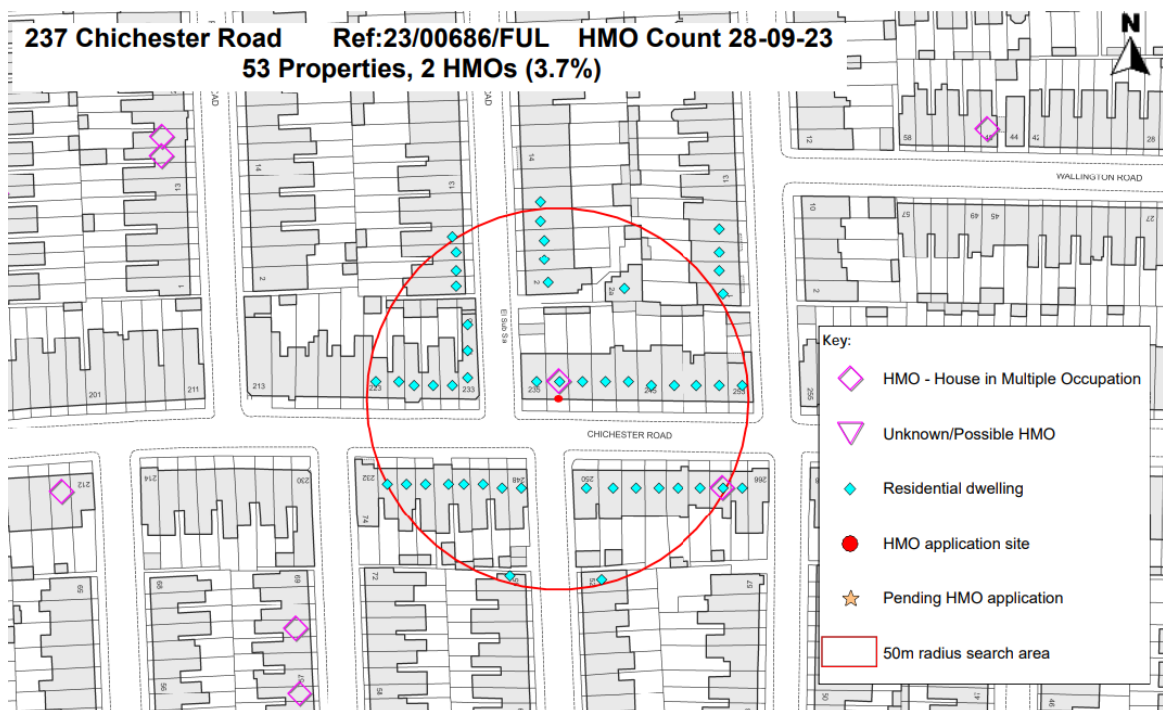
8.2 Principle of development

8.3 Permission is sought for the use of the property as a HMO for 7 persons. The property currently has a lawful use as a self-contained dwelling (Class C3). The property currently has an extant planning permission for use as HMO for 6 individuals. This proposal is for an additional person/bedroom.

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 49 properties within a 50-metre radius of the application site, there are two confirmed HMOs, at No. 262 Chichester Road and the application property itself. 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, which already has permission to be used as an HMO, the confirmed HMOs within a 50-metre radius of the application property the proposal would result in the percentage of HMOs within the area as 4.081%. This would be lower than the 10% threshold above which an area is considered to be imbalanced and in conflict with Policy 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 Policy PCS20 of the Portsmouth Plan (2012).

8.9 Standard of accommodation

8.10 The application seeks the opportunity to use the property as a Sui Generis HMO for occupation by up to seven individuals. The submitted plans have been checked by officers and the below table compares the proposed room sizes against the standards set out within the HMO SPD.

Room	Area Provided	Required Standard
Bedroom 1 (Second floor)	10.24m ²	6.51m ²
Bedroom 2 (Second floor)	10.89m ²	6.51m ²
Bedroom 3 (first floor)	11.04m ²	6.51m ²
Bedroom 4 (first floor)	10.37m ²	6.51m ²
Bedroom 5 (first floor)	10.19m ²	6.51m ²
Bedroom 6 (ground floor)	10.79m ²	6.51m ²
Bedroom 7 (ground floor)	11.04m ²	6.51m ²
Communal Kitchen/Dining area (ground floor)	31.56m ²	22.5m ² as all bedrooms exceed 10m ²
Ensuite bathroom 1 (second floor)	3.37m ²	2.74m ²
Ensuite bathroom 2 (second floor)	3.42m ²	2.74m ²
Ensuite bathroom 3 (first floor)	3.23m ²	2.74m ²
Ensuite bathroom 4 (first floor)	2.90m ²	2.74m ²
Ensuite bathroom 5 (first floor)	2.75m ²	2.74m ²
Ensuite bathroom 6 (ground floor)	2.75m ²	2.74m ²
Ensuite bathroom 7 (ground floor)	2.75m ²	2.74m ²
W/C (ground floor)	1.37m ²	1.17m ²

8.11 As is shown in the table above, the proposal results in an internal layout that meets a straightforward appraisal against the Council's adopted space. Based on the information supplied with the application this detailed guidance is considered applicable and the resulting layout is considered to result in a satisfactory standard of living environment.

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 7 unrelated persons as a house in multiple occupation. It is also a material consideration that the property has permission to be used as a six bedroom

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six person HMO. The potential difference in level of activity between six and seven persons is not considered to be material.

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, which has in any event already been consented as a six-bedroom HMO, would not be significantly harmful.

8.15 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.

8.16 Highways/Parking

8.17 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 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. 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.

8.18 As the level of parking demand associated with an 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. It is again a material consideration that the property already has consent for a six bedroom HMO, and that the impact of an additional resident in respect of parking is not material, and would in any event not result in any additional demand for parking spaces against standards.

8.19 The Council's Adopted Parking Standards set out a requirement for HMOs to provide space for the storage of at least 4 bicycles. The property has a rear outbuilding where secure cycle storage would be located. The requirement for cycle storage is recommended to be secured by condition.

8.20 Waste

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

8.22 Impact on Special Protection Areas

8.23 Natural England have agreed to figures to offset the impact on Nitrate output and SPA recreational disturbance and this has been resolved through a s111 agreement.

8.24 Community Infrastructure Levy (CIL)

-
- 8.25 The development would not be CIL liable as the Gross Internal Area of the application property (carried out under permitted development) would not exceed 100m².
- 8.26 Human Rights and the Public Sector Equality Duty ("PSED")
- 8.27 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.
- 8.28 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
- 8.30 Concerns have been raised by neighbouring residents regarding the pressure additional occupants would put on local services, and parking. However, having regard to the existing lawful use of the property as a self-contained dwellinghouse, and the permitted extant scheme for use as a six bedroom HMO, it is considered the use of the property would not have a significantly greater impact on local services.

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) (2023).

RECOMMENDATION Conditional Permission

Conditions

Approved Plans:

- 1) 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: Proposed Floor Plans PG.6176.21.04 Revision C (existing and proposed floor and elevation plans), Block plan and Location plan.

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

Cycle Storage:

- 2) 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 as shown:

- 3) Prior to first occupation of the property as a House in Multiple Occupation (Sui Generis) for seven persons, the building operations indicated within approved drawing numbers: namely the construction of the single storey rear extension, and dormer window shall be completed.

Reason: To ensure that adequate and communal living space is provided in accordance with Policy PCS23 of the Portsmouth Plan (2012) and the Houses in Multiple Occupation Supplementary Planning Document (2019).

Agenda Item 8

23/00561/FUL

WARD:COPNOR

262 CHICHESTER ROAD PORTSMOUTH PO2 0AU

CHANGE OF USE FROM 6-BED/6-PERSON HOUSE IN MULTIPLE OCCUPATION TO 7-BED/7-PERSON HOUSE IN MULTIPLE OCCUPATION

WEBSITE LINK

CHANGE OF USE FROM 6-BED/6-PERSON HOUSE IN MULTIPLE OCCUPATION TO 7-BED/7-PERSON HOUSE IN MULTIPLE OCCUPATION

Application Submitted By:

Mr Willment
HMO Designers

On behalf of:

Nanayakkara

RDD: 9th May 2023

LDD: 22nd August 2023

1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee due to an objection and call-in request from Cllr Wymess, and Cllr Vernon-Jackson as well as an objection received from Cllr Swann and 1 objection received from a local resident.

1.2 The main issues for consideration in the determination of the application are as follows:

- Principle of Development including compliance with policy
- Impacts on Amenity including parking
- Other material considerations

1.3 Site and Surrounds

1.4 The application relates to a two-storey, mid-terrace property located on the southern side of Chichester Road. The property is set back from the road by a small front forecourt and to the rear of the property is an enclosed garden with separate pedestrian alleyway access to the rear garden from Westbourne Road.

1.5 The application site is within a predominantly residential area characterised by rows of similar two-storey terraced properties with a similar visual style. Some of the properties on the road have been subdivided into flats, such as No. 266 Chichester Road.

1.6 The Proposal

The Applicant has sought planning permission for the change of use of the dwelling from the current lawful use as a HMO with up to six individuals living together to allow up to seven individuals to live together as an HMO. This change of occupancy will involve the use of the ground floor dining room as a bedroom (shown as bedroom 2).

1.7 Planning History

22/01075/FUL - Change of use from dwellinghouse (Class C3) to purposes falling within Class C3 (dwellinghouse) and Class C4 (house in multiple occupation) - Approved 12.10.2022. This planning permission granted the use of the property as a C4 HMO for up

to 6 persons. Permitted development works have been carried out to the property to achieve this.

2.0 POLICY CONTEXT

- 2.1 In addition to the aims and objectives of the National Planning Policy Framework (2023), the relevant policies within the Portsmouth Plan (2012) include: 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 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 - 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.
- 3.2 Highways Engineer - No objection. Highlights that there would be no increase in parking requirement (2 spaces). Cycle store is outlined within the rear garden and considered sufficient.
- 3.3 Natural England - No objection - subject to appropriate mitigation being secured.

4.0 REPRESENTATIONS

- 4.1 3 objections received, including one from Cllr Wymess and one from Cllr Swann, summarised as:
- a) Too many HMOs
 - b) Lack of car parking provision leading to an increase in traffic and exacerbation of existing on-street parking problems
 - c) Loss of family home from the existing housing stock
 - d) Poor standard of living for future residents
 - e) Undue strain on local services and infrastructure.
 - f) Concerns about impact on community
 - g) Increase in noise
 - h) Increase in waste

5.0 COMMENT

- 5.1 The main issues to consider in the determination of this application is whether the proposal is acceptable in principle.
- 5.2 Principle
- 5.3 The HMO SPD has been published to provide a tool for addressing the recognised impacts that HMO's may have in Portsmouth, most notably in relation to the residential amenity, both for occupiers of HMO's and neighbouring properties and housing mix of certain communities. Two of the key matters of principles explained in the HMO SPD are the assessment of housing mix to ensure balanced communities and the application of

minimum room sizes, reflecting those in force as part of the private sector housing licencing regime, to ensure an appropriate living environment for future residents.

- 5.4 In this case the application site is already in lawful use as an HMO and the application has been made to recognise the intention to increase its occupation by 1 occupant. As such the application is not considered, on its individual facts to create any material impact on the balance of the community in the area. The HMO SPD suggests a threshold of 10% of dwellings in any area of 50m radius as a maximum proportion of HMO dwellings to C3, single household, dwellings. As the minor increase in occupancy does not change this mix of dwellings the proposal has no impact on this guidance. For reference, it can be noted however that the relevant 50m radius area is currently made up of 3 HMOs out of 53 properties, a percentage of 5.6%. This proposal of course has no effect on that percentage and the small increase of HMO dwelling occupants in this area is not considered to create any demonstrable imbalance or adverse implications. The HMO SPD also described 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. As this proposal does not involve the creation of a new HMO these considerations are not brought into effect.
- 5.5 The HMO use of this site currently benefits from a draft Licence to be granted by Portsmouth City Council to operate as an HMO with up to 7 occupants. This licence is to be granted on 6th November 2023.
- 5.6 The repurposing of internal rooms to accommodate the additional occupants within this proposal will have an effect on the ratio of communal/amenity space compared to private bedroom space available internally for future occupants. While this matter will also be considered as part of the necessary licensing of the HMO by the Private Sector Housing team under the Housing Act, the HMO SPD identifies this as a consideration as part of the assessment of whether a good standard of living environment is provided for future residents as required by Local Plan Policy PCS23. 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 (Single use)	12.085m ²	6.51m ²
Bedroom 2 (Single use)	10.762m ²	6.51m ²
Bedroom 3 (Single use)	10.00m ²	6.51m ²
Bedroom 4 (Single use)	11.044m ²	6.51m ²
Bedroom 5 (Single use)	10.00m ²	6.51m ²
Bedroom 6 (Single use)	10.737m ²	6.51m ²
Bedroom 7 (Single use)	10.171m ²	6.51m ²
Communal Kitchen/Dining area (ground floor)	29.601m ²	22.5m ² (22.5m ² if all bedrooms exceed 10m ²)
Ensuite bathroom 1	2.74m ²	2.74m ²
Ensuite bathroom 2	2.78m ²	2.74m ²
Ensuite bathroom 3	2.74.m ²	2.74m ²
Ensuite bathroom 4	2.74m ²	2.74m ²
Ensuite bathroom 5	2.74m ²	2.74m ²
Ensuite bathroom 6	3.313m ²	2.74m ²
Ensuite bathroom 7	3.942m ²	2.74m ²



5.7 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.

5.8 Amenity and Parking

5.9 The proposal would increase the occupancy of the existing HMO by 1 occupant. While this would have a proportionate increase in activity within and coming and going from the property this small increase in the number of residents is not considered likely to have any demonstrable adverse effect on residential amenity for neighbours of the surrounding area.

5.10 Similarly the minor increase of occupants is not considered to have a demonstrable impact on the parking need and thus parking availability in the wider area. It is noted that the Council's adopted Parking Standards, within the associated SPD has the same expectation for the number of parking spaces, 2 spaces per dwelling, for any scale of HMO with 4 or more bedrooms. Consequently, the proposal remains in accordance with the Council's adopted guidance on parking provision.

5.11 Other Material Considerations

5.12 A key and overriding consideration in this case is the necessity to recognise the fall-back position available to the applicant; that is the position they could take if this application is refused. In this case the addition of only 1 occupant to the existing lawful HMO is not considered to amount to a material change in the use of the dwelling. Under s57 Town and Country Planning Act 1990 ('TCPA') there is a general requirement that development should not be carried out, except with planning permission. However, not all changes of use are considered to be 'development' and therefore not all changes require planning permission. Under s55 of the Town and Country Planning Act 1990 'development' is defined as making of a *material* change in the use of any buildings or land. Whether or not a change is a material change is a matter of fact and degree to be assessed on its own merits. Members will note a number of joint appeal decisions, the 'Campbell Properties' appeal dated 29 April 2021, and the 'Lane' appeal decision dated 9 March

2023 wherein the Inspector considered a number of similar changes of use and, on their individual merits, identified examples whereby a change in the occupancy of an existing HMO with up to 6 occupants to an occupancy up to 7 occupants, and a change in occupancy from up to 6 occupants to an occupancy of up to 8 occupants was not considered to be a material change of use notwithstanding it moved the classification of the dwellings outside of Use Class C4 of the Use Classes Order. While every application must be considered on their own individual merits these examples provide clear guidance on the correct interpretation of s55 of the TCPA and that appeal decision is considered to be a material consideration in the determination of similar applications. Members may also note the previous decisions of Portsmouth's Planning Committee which have contrary to Officer recommendation determined similar changes in occupation amounted to a material change in use, primarily due to a conclusion that due to the intensity of the use of the accommodation; the impact on parking, waste, amenity impact upon neighbouring residents; and the impact on the Solent Special Protection Area the changes considered in those cases on their own individual merits amount to development requiring planning permission. The 'Lane' appeal decisions of 9 March 2023 were against three such Planning Committee decisions and the Planning Inspector in those case disagreed both with the judgement of the Committee and was critical of the justification, noted above, as a basis for that judgement

- 5.13 In the circumstances of the case the subject of this report it is considered that the increase in occupancy does not result in a significant difference in the character of the activities that would occur under the proposed occupation compared to the existing lawful use as a HMO with up to six occupants. As such it is considered that the change of use is not material and planning permission is not required for the increase in occupancy described in the application. The Applicant therefore has a fall-back position of being able to lawful carry out the change in occupation without the benefit of Planning Permission.
- 5.14 Should it be considered necessary to assess the merits of the application, notwithstanding the advice of Officers' above, the Committee's attention is drawn to the current 5 year housing land supply position within Portsmouth. In any planning application, the decision-maker will need to 'balance' any harms identified due the development against any benefits also arising. Principally, for this HMO application, the benefits are to the provision of housing through the provision of additional bedspace of occupation within the HMO. While this is a small contribution to the overall housing stock, the Council currently is unable to identify a 'five year supply' of housing, with only a 2.9 year supply currently identifiable. In this circumstance, the Council is directed to consider that the policies which are most important to determinations associated with housing provision within the Local Plan are out of date. The consequence of this is that decision takers are directed to apply a tilted balance to determinations so that permission is only withheld when the adverse impacts '*...significantly and demonstrably outweigh the benefits...*'. Any harms associated with the increase in occupancy in this area are considered to be insignificant and therefore fall short of being able to significantly and demonstrably outweigh even the small benefit to the city's housing stock of the provision of bedspaces, should such assessment be considered necessary.
- 5.15 Impact on Special Protection Areas
- 5.16 Whilst it is acknowledged that there are ongoing issues around the nitrification of the Solent due to increased levels of runoff from residential development the applicants above fall-back position would allow the occupation of the site without Planning Permission. As such it is considered that the proposal would not amount to development and therefore not have Likely Significant Effect on the Solent Special Protection Areas or result in an increased level of nitrate discharge.

6.0 CONCLUSION

- 6.1 As detailed above the application is considered to fully comply with the relevant policies of the Local Plan. However, notwithstanding the compliance or otherwise of the proposal with the policies of the Local Plan it is noted that the on the details of this case the changes in the character of activities are not sufficiently significant, as a matter of fact and degree, to be considered to result in a material change in the use of this property. As such planning permission is not required and the proposal could be carried out as a fall-back position irrespective of the determination of this application. This is considered a material consideration of overriding weight, and unconditional planning permission should therefore be granted.
- 6.2 Should the Committee conclude, contrary to this recommendation, that the change in occupation, as a matter of planning judgement, fact and degree in this specific case results in a material change of use requiring planning permission then they should consider whether permission should be granted with conditions. In such a circumstance, as the merits of the proposed use comply fully with the relevant policies of the Local Plan and associated guidance, the Committee would need to consider whether to resolve to grant permission, subject to the imposition of conditions requiring implementation of the additional occupancy within 3 year (a Time Limit condition), requiring that the development be carried out in accordance with plans submitted (an Approved Plans condition), and requiring that that increased occupancy should not occur until an appropriate scheme of mitigation is submitted and approved to mitigate any impact on the Solent Special Protection Area.

RECOMMENDATION

Unconditional Permission

Conditions: None

Agenda Item 9

23/00905/FUL

WARD:ST THOMAS

73 MARGATE ROAD SOUTHSEA PO5 1EY

CHANGE OF USE FROM 6-BED/6-PERSON HOUSE IN MULTIPLE OCCUPATION TO 7-BED/7-PERSON HOUSE IN MULTIPLE OCCUPATION

[WEBSITE LINK - 23/00905/FUL : CHANGE OF USE FROM 6-BED/6-PERSON HOUSE IN MULTIPLE OCCUPATION TO 7-BED/7-PERSON HOUSE IN MULTIPLE OCCUPATION](#)

Application Submitted By:

Mr Sean Reading
JB Architecture Design Ltd.

On behalf of:

Mr Briscoe

RDD: 19th July 2023

LDD: 5th October 2023

1.0 SUMMARY OF MAIN ISSUES

- 1.1 This application is brought before Planning Committee at the request of Councillor Vernon-Jackson.
- 1.2 The main issues for consideration in the determination of the application are as follows:
 - Principle of Development including compliance with policy
 - Impacts on Amenity including parking
 - Other material considerations
- 1.3 Site and surroundings
- 1.3 The application site is a two storey terraced dwelling with rooms in the roof in a predominately residential area.
- 1.4 The Proposal
- 1.5 The Applicant has sought planning permission for the change of use of the dwelling from the current lawful use as a HMO with up to six individuals living together to allow up to 7 individuals to live together as an HMO. This change in occupancy will involve the repurposing of internal rooms but no external operational development forms part of this application.
- 1.6 Planning History
- 1.7 20/00972/CPL: Application for a lawful development certificate for a proposed loft conversion, to include rear dormer and outrigger roof extensions the installation of 2 no. roof lights to front roofslope. Granted 22.12.2020.
- 1.8 20/00218/CPE: Application for Certificate of Lawful Development for the existing use as a house in multiple occupancy (Class C4). Granted 01.07.2020. Evidence submitted within the certificate showed that the property had been primarily occupied by between 4 unrelated tenants from 2011-2021.

2.0 POLICY CONTEXT

- 2.1 In addition to the aims and objectives of the National Planning Policy Framework (2023), the relevant policies within the Portsmouth Plan (2012) include: 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 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.

4.0 REPRESENTATIONS

- 4.1 Two representations have been received raising objection on the following grounds:

- a) Allowed neighbour to be sandwiched by two HMOs;
- b) No consultation regarding the increase on No.73 Margate Road to 6 occupants;
- c) Increase in waste;
- d) Parking concerns;
- e) Increase in noise and disturbance; and
- f) Lack of family housing.

5.0 COMMENT

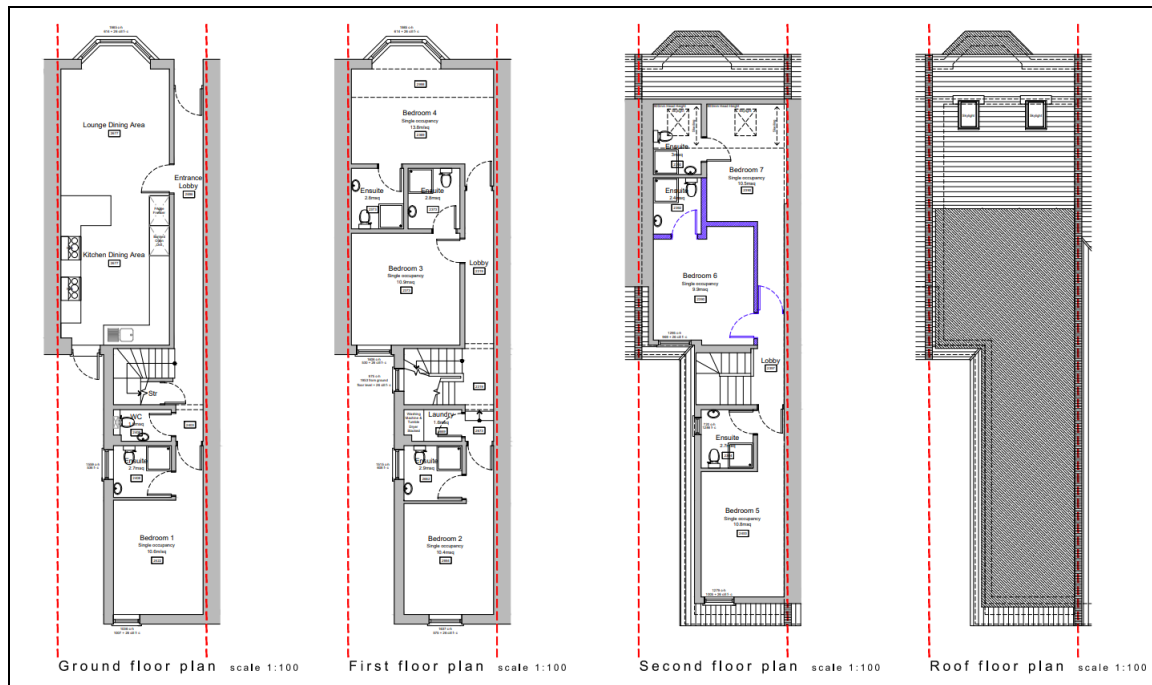
- 5.1 The main issues to consider in the determination of this application is whether the proposal is acceptable in principle.

5.2 Principle

- 5.3 The HMO SPD has been published to provide a tool for addressing the recognised impacts that HMO's may have in Portsmouth, most notably in relation to the residential amenity, both for occupiers of HMO's and neighbouring properties and housing mix of certain communities. Two of the key matters of principles explained in the HMO SPD are the assessment of housing mix to ensure balanced communities and the application of minimum room sizes, reflecting those in force as part of the private sector housing licencing regime, to ensure an appropriate living environment for future residents.
- 5.4 In this case the application site is already in lawful use as an HMO and the application has been made to recognise the intention to increase its occupation by 1 occupant. As such the application is not considered, on its individual facts to create any material impact on the balance of the community in the area. The HMO SPD suggests a threshold of 10% of dwellings in any area of 50m radius as a maximum proportion of HMO dwellings to C3, single household, dwellings. As the minor increase in occupancy does not change this mix of dwellings the proposal has no impact on this guidance. For reference, it can be noted however that the relevant 50m radius area is currently made up of 44 HMOs out of 88 properties, a percentage of 50%. This proposal has no effect on that percentage and the small increase of HMO dwelling occupants in this area is not considered to create any demonstrable imbalance or adverse implications.
- 5.5 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. As this proposal does not involve the creation of a new HMO these considerations are not brought into effect.
- 5.6 The HMO use of this site currently benefits from a Licence granted by Portsmouth City Council to operate as an HMO with up to 7 occupants. This licence was granted on 15/07/2022.

5.7 The repurposing of internal rooms to accommodate the additional occupants within this proposal will have an effect on the ratio of communal/amenity space compared to private bedroom space available internally for future occupants. While this matter will also be considered as part of the necessary licensing of the HMO by the Private Sector Housing team under the Housing Act, the HMO SPD identifies this as a consideration as part of the assessment of whether a good standard of living environment is provided for future residents as required by Local Plan Policy PCS23. 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:	Size provided for in Guidance:
Bedroom 1	10.6m ²	6.51m ²
Bedroom 2	10.4m ²	6.51m ²
Bedroom 3	10.9m ²	6.51m ²
Bedroom 4	13.8m ²	6.51m ²
Bedroom 5	10.8m ²	6.51m ²
Bedroom 6	9.9m ²	6.51m ²
Bedroom 7	10.5m ²	6.51m ²
Combined Living Space	28.05m ²	22.5m ²
Ensuite B1	2.7m ²	2.74m ²
Ensuite B2	2.9m ²	2.74m ²
Ensuite B3	2.8m ²	2.74m ²
Ensuite B4	2.8m ²	2.74m ²
Ensuite B5	2.7m ²	2.74m ²
Ensuite B6	2.4m ²	2.74m ²
Ensuite B7	3m ²	2.74m ²
WC	1.6m ²	1.17m ²



5.7 As is shown in the table above, the proposal results in an internal layout that meets a straightforward appraisal against the Council's adopted space standards except for three en-suites (two being 0.04m² short but not impacted by the proposal and B6 being 0.34m² short) and combined living space, which within the HMO SPD is more than 34m² for six or more persons. However the HMO SPD, at para 2.6, advises that more detailed guidance, beyond these headline requirements should be referred to within the Council's standards for Houses in Multiple Occupation Guidance (September 2018). This more

detailed guidance applies lower minimum requirements (of 22.5m²) for combined living accommodation in circumstances where all bedrooms are at least 10m² and the accommodation is otherwise acceptable as communal space. On the basis of the information supplied with the application, and where all bedrooms, other than one (which is only 0.1m² less - B6), are above 10m², this detailed guidance is considered applicable and the resulting layout is considered to result in a satisfactory standard of living environment. The minor size differences of the en-suites is considered to be di minimis in two cases (which are not impacted by the development in any event), and for the third, is not significant, still allows required facilities, and would deliver a satisfactory standard of living.

5.8 Amenity and Parking

5.9 The proposal would increase the occupancy of the existing HMO by 1 occupant only. While this would have a proportionate increase in activity within and coming and going from the property this small increase in the number of residents is not considered likely to have any demonstrable adverse effect on residential amenity for neighbours of the surrounding area.

5.10 Similarly the minor increase of occupants is not considered to have a demonstrable impact on the parking need and thus parking availability in the wider area. It is noted that the Council's adopted Parking Standards, within the associated SPD has the same expectation for the number of parking spaces, 2 spaces per dwelling, for any scale of HMO with 4 or more bedrooms. Consequently, the proposal remains in accordance with the Council's adopted guidance on parking provision.

5.11 Other Material Considerations

5.12 A key and overriding consideration in this case is the necessity to recognise the fall-back position available to the applicant; that is the position they could take if this application is refused. In this case the addition of only 1 occupant to the existing lawful HMO is not considered to amount to a material change in the use of the dwelling. Under s57 Town and Country Planning Act 1990 ('TCPA') there is a general requirement that development should not be carried out, except with planning permission. However not all changes of use are considered to be 'development' and therefore not all changes require planning permission. Under s55 of the Town and Country Planning Act 1990 'development' is defined as making of a *material* change in the use of any buildings or land. Whether or not a change is a material change is a matter of fact and degree to be assessed on its own merits. Members will note a number of joint appeal decisions, the 'Campbell Properties' appeal dated 29 April 2021, and the 'Lane' appeal decision dated 9 March 2023 wherein the Inspector considered a number of similar changes of use and, on their individual merits, identified examples whereby a change in the occupancy of an existing HMO with up to 6 occupants to an occupancy up to 7 occupants, and a change in occupancy from up to 6 occupants to an occupancy of up to 8 occupants was not considered to be a material change of use notwithstanding it moved the classification of the dwellings outside of Use Class C4 of the Use Classes Order. While every application must be considered on their own individual merits these examples provide clear guidance on the correct interpretation of s55 of the TCPA and that appeal decision is considered to be a material consideration in the determination of similar applications.

Members may also note the previous decisions of Portsmouth's Planning Committee which have, contrary to Officer recommendation, determined that similar changes in occupation amounted to a material change in use, primarily due to a conclusion that due to the intensity of the use of the accommodation; the impact on parking, waste, amenity impact upon neighbouring residents; and the impact on the Solent Special Protection Area the changes considered in those cases on their own individual merits amount to development requiring planning permission. The 'Lane' appeal decisions of 9 March 2023 were against three such Planning Committee decisions and the Planning Inspector

in those cases disagreed with the judgement of the Committee and was critical of the justification, noted above, as a basis for that judgement.

- 5.13 In the circumstances of the case the subject of this report it is considered that the increase in occupancy does not result in a significant difference in the character of the activities that would occur under the proposed occupation compared to the existing lawful use as a HMO with up to six occupants. As such it is considered that the change of use is not material and planning permission is not required for the increase in occupancy described in the application. The Applicant therefore has a fall-back position of being able to lawfully carry out the change in occupation without the benefit of Planning Permission.
- 5.14 Should it be considered necessary to assess the merits of the application, notwithstanding the advice of Officers' above, the Committee's attention is drawn to the current 5 year housing land supply position within Portsmouth. In any planning application, the decision-maker will need to 'balance' any harms identified due the development against any benefits also arising. Principally, for this HMO application, the benefits are to the provision of housing through the provision of additional bedspace of occupation within the HMO. While this is a small contribution to the overall housing stock, the Council currently is unable to identify a 'five year supply' of housing, with only a 2.9 year supply currently identifiable. In this circumstance, the Council is directed to consider that the policies which are most important to determinations associated with housing provision within the Local Plan are out of date. The consequence of this is that decision takers are directed to apply a tilted balance to determinations so that permission is only withheld when the adverse impacts '*...significantly and demonstrably outweigh the benefits...*'. Any harm associated with the increase in occupancy in this area are considered to be insignificant and therefore fall short of being able to significantly and demonstrably outweigh even the small benefit to the city's housing stock of the provision of bedspaces, should such assessment be considered necessary.
- 5.15 A neighbour raised that no consultation was carried out for the increase in occupation from 4 to 6 in the existing property, this emphasises the point that the proposed change of use does not result in development, as the definition of C4 allows for the change in occupation without a new consent being sought.
- 5.16 Both of the properties which result in sandwiching were in existence as HMOs prior to the introduction of the Article 4 in 2011, and in any event, as above, this application does not create a new HMO.
- 5.17 Impact on Special Protection Areas
- 5.18 Whilst it is acknowledged that there are ongoing issues around the nitrification of the Solent due to increased levels of runoff from residential development the applicants above fall-back position would allow the occupation of the site without Planning Permission. As such it is considered that the proposal would not amount to development and therefore not have Likely Significant Effect on the Solent Special Protection Areas or result in an increased level of nitrate discharge.

6.0 CONCLUSION

- 6.1 As detailed above the application is considered to fully comply with the relevant policies of the Local Plan. However, notwithstanding the compliance or otherwise of the proposal with the policies of the Local Plan it is noted that on the details of this case the changes in the character of activities are not sufficiently significant, as a matter of fact and degree, to be considered to result in a material change in the use. As such planning permission is not required for the proposal, as described in the application, and the proposal could be carried out as a fall-back position irrespective of the determination of this application. This is considered a material consideration of overriding weight, and unconditional planning permission should therefore be granted.

- 6.2 Should the Committee conclude, contrary to this recommendation, that the change in occupation, as a matter of planning judgement, of fact and degree, in this specific case results in a material change of use requiring planning permission then they should consider whether permission should be granted with conditions. In such a circumstance, as the merits of the proposed use comply fully with the relevant policies of the Local Plan and associated guidance, the Committee would need to consider whether to resolve to grant permission, subject to the imposition of conditions requiring implementation of the additional occupancy within 3 year (a Time Limit condition), requiring that the development be carried out in accordance with plans submitted (an Approved Plans condition), and requiring that that increased occupancy should not occur until an appropriate scheme of mitigation is submitted and approved to mitigate any impact on the Solent Special Protection Area.

RECOMMENDATION

Unconditional Permission

Conditions: None

Agenda Item 10

23/01136/MMA

WARD: HILSEA

17 MILITARY ROAD PORTSMOUTH PO3 5LS

MINOR MATERIAL AMENDMENT TO PLANNING PERMISSION 21/01182/HOU, WITH REGARD TO POSITION AND SIZE OF FIRST FLOOR REAR WINDOW.

WEBSITE LINK:

[23/01136/MMA | Minor material amendment to planning permission 21/01182/HOU, with regard to position and size of first floor rear window. | 17 Military Road Portsmouth PO3 5LS](#)

Application Submitted By:

Mr & Mrs Karl & Andrea Semmens

On behalf of:

Mr & Mrs Karl & Andrea Semmens

RDD: 8th September 2023

LDD: 30th November 2023

1.0 SUMMARY OF MAIN ISSUES

- 1.1 This application is brought to the Planning Committee for determination as the applicant is an employee of Portsmouth City Council.
- 1.2 The main issues for consideration relate to:
 - Design
 - Impact upon the amenity of neighbouring residents
- 1.3 Site, Proposal and Relevant Planning History
- 1.4 This application relates to the easternmost of a pair of two-storey semi-detached dwellings located to the northern side of Military Road. The property benefits from a detached double garage to the rear, accessed from Firgrove Crescent.
- 1.5 The adjoining property to the west (no.15) has a conservatory to the rear which incorporates glazing within its east facing elevation facing into the application site. The neighbouring property to the east (no.19) has an attached former garage along its western boundary that has been subsequently converted to ancillary living space.



Figure 1 - Location Plan

1.6 The Proposal

- 1.7 The application seeks the approval of a minor material amendment to planning permission 21/01182/HOU, with regard to the position and width of a first floor rear window:



Figure 2 - rear elevation as permitted under 21/01182/HOU



Figure 3 - rear elevation as proposed

1.8 Relevant Planning History

- 1.9 21/01182/HOU - Construction of part two/part single storey side/rear extension; hip to gable roof extension and dormer to rear roofslope; alterations to first floor rear windows; extension to existing detached garage to rear of garden - conditional permission dated 2/2/22.
- 1.10 23/00920/NMA - Non-Material Amendment to planning permission 21/01182/HOU, to seek approval of amendments to position of side door and rooflights to rear extension - approved dated 23/8/23.

2.0 **POLICY CONTEXT**

- 2.1 Portsmouth Plan (2012):
- PCS23 (Design and Conservation)
- 2.2 In accordance with the National Planning Policy Framework (2023) due weight has been given to the relevant policies in the above plan.

3.0 **CONSULTATIONS**

- 3.1 None

4.0 **REPRESENTATIONS**

- 4.1 None

5.0 **COMMENT**

- 5.1 The main issues for consideration relate to design and impact upon the amenity of neighbouring residents.

5.2 Design

- 5.3 The increased width (from a 3 pane to 4 pane window) and revised position of the easternmost first floor window is considered an improvement in the appearance, balance and proportions of fenestration within the rear elevation.

5.4 Residential Amenity

5.5 Whilst the increased width and revised position of the first-floor window places it 1.42m further east than that approved, it is not considered that its proposed position would result in any significant increase in overlooking or loss of privacy towards the rear garden area of no.19 Military Road than would have been afforded by the approved position.

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

5.7 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.

5.8 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.

6.0 **Conclusion**

6.1 The proposed minor material amendment is considered acceptable in both design and residential amenity terms and is capable of support subject to conditions.

RECOMMENDATION Conditional Permission

Conditions:

Approved Plans

1. 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: Location Plan no.100019980, Proposed Site Plan no. 5663/500 Revision A, Proposed Elevations 5663/7 Revision H, Proposed Ground Floor Plan 5663/3 Revision A, Proposed First Floor Plan 5663/4 Revision G, Proposed Second Floor Plan 5663/5 Revision B, Proposed Roof Plan 5663/200 Revision A, Proposed Garage Elevations 5663/1 Revision A and Proposed Garage Floor Plan 5663/9.
Reason: To ensure the development is implemented in accordance with the permission granted.

Matching Materials

2. The bricks and tiles 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.

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