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# NOTICE OF MEETING

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## PLANNING COMMITTEE

WEDNESDAY, 19 MARCH 2025 AT 10.30AM

COUNCIL CHAMBER - THE GUILDHALL, PORTSMOUTH

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

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### Planning Committee Members:

Councillors Gerald Vernon-Jackson CBE (Chair), Judith Smyth (Vice-Chair), Richard Adair, Chris Attwell, Peter Candlish, Matthew Cordy, Hugh Mason, Derek North, Asghar Shah and Mary Vallely

### Standing Deputies

Councillors Yinka Adeniran, Dave Ashmore, Raymond Dent, George Fielding, Ian Holder, Mark Jeffery, Steve Pitt, Russell Simpson, Suzy Horton and George Madgwick

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

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

Representations by members of the public may be made on any item where a decision is going to be taken. The request needs to be made in writing to the relevant officer by 12 noon of the working day before the meeting, and must include the purpose of the representation (eg. for or against the recommendations). Email requests are accepted. Contact: [planning.reps@portsmouthcc.gov.uk](mailto:planning.reps@portsmouthcc.gov.uk)

## AGENDA

- 1 Apologies
- 2 Declaration of Members' Interests
- 3 Minutes of Previous Meeting - 26 February 2025 (Pages 5 - 12)
- 4 24/01553/DOC - Southsea Seafront From Long Curtain Moat In The West

**To Eastney Marine Barracks In The East. (Pages 13 - 22)**

Application to discharge conditions 2, 5a, 5b, 16, 21, 22, 24, 26, 17, 32, 33,34 and 30a of planning permission 24/00987/VOC (phasing plan, archaeology, soft landscaping, external lighting, street furniture and walls, hard surface materials, road and footpaths, earth bund, secondary defences, scale of rock, primary defences and approval of sample for works at the Naval memorial).

**5 25/00069/FUL - 133 Stubbington Avenue Portsmouth PO2 0JF. (Pages 23 - 34)**

Change of use from dwellinghouse (Class C3) to 8bed/8person house of multiple occupation (Sui Generis)

**6 24/00596/FUL - 81 Stubbington Avenue Portsmouth PO2 0JD. (Pages 35 - 44)**

Change of use from a 6-bed/6-person House in Multiple Occupation to a 7-bed/8-person House in Multiple Occupation; extensions to roof to include gable end build up and rear dormer to rear roof slope; changes to fenestration of existing Ground floor extension.

**7 25/00026/FUL - 64 Langstone Road, Portsmouth, PO3 6BX. (Pages 45 - 56)**

Change of Use from Dwelling House (Class C3) to purposes falling within House of Multiple Occupation (Class C4) or a Dwellinghouse (Class C3).

**8 24/01194/FUL - 231 Laburnum Grove Portsmouth PO2 0HE. (Pages 57 - 68)**

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

**9 24/01524/FUL - 180 Hawthorn Crescent Portsmouth PO6 2TR. (Pages 69 - 80)**

Change of use from dwelling house (Class C3) into House of Multiple Occupancy (C4 use class) construction of single storey rear extension after demolition of lean-to structure.

**10 24/01161/PLAREG - 137A London Road Portsmouth PO2 9AA. (Pages 81 - 88)**

Retrospective application for change of use of upper floors from house in multiple occupation (Class C4) to 5-bed/7-person House of Multiple Occupation (Sui Generis).

These documents are available to view on Portsmouth City Council's website. Search under Your Council/ Council Minutes and Meetings/ Regulatory Committees/Planning Committee

## PLANNING COMMITTEE

MINUTES OF THE MEETING of the Planning Committee held on Wednesday, 26 February 2025 at 10.30 am 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 Gerald Vernon-Jackson CBE (Chair)  
Judith Smyth (Vice-Chair)  
Richard Adair  
Chris Attwell  
Peter Candlish  
Matthew Cordy  
Hugh Mason  
Asghar Shah  
Mary Valley

### 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.

#### 20. Apologies (AI 1)

Councillor Derek North sent apologies. Councillor George Madgwick attended as standing deputy.

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

There were no declarations of interest.

#### 22. Minutes of previous meeting - 5 February 2025 (AI 3)

**RESOLVED** that the minutes of the Planning Committee meeting held on 5 February 2025 be agreed as a correct record.

#### Planning Applications

The Supplementary Matters report (SMAT) is on the Council's website at [Supplementary Matters report.pdf](#)

Deputations (which are not minuted) can be viewed on the webcast at [Agenda for Planning Committee on Wednesday, 26th February, 2025, 10.30 am Portsmouth City Council](#)

**23. 24/01089/FUL - Venture Tower, 57- 67 Fratton Road, Portsmouth PO1 5LD (AI 4)**

The Principal Planning Officer introduced the report which was for the change of use of the building (1<sup>st</sup> - 8<sup>th</sup> floor) to form a student hall of residence comprising 100 study bedrooms; external alterations to include construction of extensions and alterations to elevations, replacement cladding, windows; provision of communal facilities, bicycle and refuse storage.

The Principal Planning Officer drew attention to the SMAT which did not change the officer recommendation.

It was noted that the site already benefited from an extant planning permission 17/0105/FUL in 2017 which had already formally commenced.

Deputations

- Carl Inman (objecting)
- Jacob Short (objecting)

Members' Questions

In response to Members' questions, officers provided the following information as clarification:

- The legal requirements for notification of an application, was to either erect site notices or to send letters to neighbouring properties. Portsmouth takes the decision to do both. A site notice was posted for this application, and letters were sent to adjoining/adjacent properties as committed to in the Statement of Community Involvement (SCI). Adjoining properties are defined in the SCI as those sharing a common boundary. In this instance, planning had gone wider and delivered letters to properties opposite, on the opposite side of Fratton Road and to the Central Mosque in Somers Road North.

The legal officer confirmed that planning officers had complied with their statutory requirements and their SCI so the application could legally continue.

- No response had been received from the Hampshire Fire and Rescue Service regarding the application. The Health and Safety Executive had been consulted due to the number of storeys, and they were satisfied with the scheme. It was noted that, in the development of Somers Orchard, Hampshire Fire and Rescue had been happy that the Health and Safety Executive were covering all safety aspects.
- There were 3 different stairways located around the building for residents to access in case of a fire.
- The position of the staircases was confirmed by reference to the plans and whilst one did not run all the way to the ground floor it was adjacent to another staircase that did.
- The legal agreement included a student management plan in terms of management of the building.

- The application was a Sui Generis application so, in terms of planning, could not be used as a permanent residential accommodation without an application for a change of use.
  - There was a Student Halls SPD which states that a single room should be 7m<sup>2</sup> and a single with en-suite should be 10-15m<sup>2</sup>. Within this application there was a student apartment which was 28.2m<sup>2</sup> and rooms at 20.3m<sup>2</sup>, 20m<sup>2</sup> and 18.6m<sup>2</sup>. The smallest room in the development was 16.4m<sup>2</sup> and this would share communal facilities.
  - A condition could be imposed to ensure the maximum occupancy would be 100.
  - The definition of a student would be dealt with within the management plan to ensure occupants are enrolled on a course but it was not known if this was limited to students at Portsmouth University.
  - The building could be converted into traditional residential units in the future, with some work, due to the core partitions being easily combined, and all the plumbing and heating being in place. This would need planning permission.
  - It was not known whether the sewerage ran into the main sewer in Fratton Road or into a side road sewer. Southern Water had been notified of the application, and they had not raised any concerns regarding the proposal.
  - The substation would be behind closed doors and there were conditions attached to it in relation to noise.
  - The cycle store had been considered by PCC highways officers who were satisfied it was large enough for 40 cycles. The number of spaces allocated was less than required in the SPD but was an increase on the previous scheme. The justification was due to the building's proximity to several shops including a large supermarket, the train station and bus stops and being in walkable distance to the university.
  - It was confirmed that the SPD guidance for cycle spaces for student accommodation was one space per student, but the council could accept a lower standard if it could be justified based on where the accommodation was located.
  - The building had 4 laundry rooms.
  - The tall part of the building would remain in a brick finish, with the lower aspects being a darker shade of material than at present.
  - The issue of disabled access would be a matter for Building Regulations to ensure all areas were accessible.
- The conditions being proposed were as follows:

- Time limit
  - Plans list
  - Materials
  - Completion of external alterations
  - Drainage
  - Ventilation and air conditioning
  - Dispersal of fumes
  - Noise and insulating the noise
  - Construction management plan
  - Landscaping
  - Bike storage
  - Refuse store
  - Use of the roof terrace
- The number of people who could be in the building at any one time would be covered by the management plan attached to the legal agreement. Officers reminded the panel that the building had previously been an office block and would have probably exceeded 100 at any one time. Again, this was an issue for the building regulations.
  - There was no space for parking on site. Parking on the street or nearby laybys could be used short term, to get people to and from the building.
  - There was no provision for e-scooters in the bike store.
  - There were no specific standards on the amount of laundry rooms.

#### Member's comments

Members drew attention to the emerging Local Plan that states any student accommodation should be capable of being converted for normal occupancy by other people should they no longer be needed for students and noted that the application had some very generous studio flats which could be useful for that purpose in the future.

Members were concerned that the amount of cycle storage was not adequate for the number of residents and that the space may not be big enough to store 40 cycles.

There were concerns about the accessibility of the building for disabled students with wheelchairs and the storage of mobility aids.

Members requested a condition be attached to limit occupancy to 100 students.

The Head of Development Management reminded the panel that should the application be refused; it would go to the fallback position of the 2017 approved scheme which was less generous in terms of facilities such as the bike store and laundry rooms. He also advised about straying into areas governed by building regulations such as accessibility. He also reminded members that highways officers had been satisfied with the number of bike spaces within the store.

As the applicant was present, the Chair invited him to update the committee on the development and this could be viewed on the web stream as per the deputations.

**RESOLVED that:**

- 1. Delegated authority be granted to the Assistant Director of Economy, Transport & Planning to grant conditional permission subject to an additional condition limiting the occupation of the student accommodation to 100 persons and to the satisfactory completion of a S106 agreement to secure:
  - (a) 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.**
  - (b) Include a student management plan and financial contribution**
  - (c) Prepare, implement and monitor a Travel Management Plan and financial contribution****
- 2. Delegated authority be granted to the Assistant Director of Economy, Transport & Planning to add/amend conditions where necessary.**
- 3. Delegated authority be granted to the Assistant Director of Economy, Transport & Planning to refuse planning permission if an internal local authority approval mechanism (an equivalent legal agreement) has not been satisfactorily agreed within six months of the date of this resolution.**

**24. 24/01157/FUL - 35 Sandringham Road, Portsmouth PO1 5DJ (AI 5)**

The Head of Development Management introduced the report which was for the change of use from a House in Multiple Occupation (HMO) to a 7-bed/7-person HMO

Deputations

- Oliver Farr (agent).

Planning Permission

Members unanimously agreed that the application did require planning permission as it would create additional pressure in terms of parking, antisocial behaviour, rubbish and noise.

Members' Questions

There were no questions.

Members' Comments

Members considered it would be good practice for licensing to double check the sizes of rooms where they just met the space standards, such as with this application with rooms at 10.01m<sup>2</sup>.

They also stressed that it was not acceptable, under any circumstances, for there to be any form of abuse to members, officers, past officers and employees of management companies by members of the public such as described in Mr Farr's deputation.

Members considered there was no sustainable reason to refuse the application and proposed acceptance with conditions.

**RESOLVED that:**

- 1. The proposal was considered to be a development requiring planning permission as it potentially created additional pressure in terms of parking, anti-social behaviour, rubbish and noise impact.**
- 2. Planning permission be granted, subject to completion of a suitable agreement to mitigate impacts on the Solent Special Protection Area and the imposition of conditions requiring the following:**
  - (a) Implementation of the additional occupancy within 3 years (a time limit condition)**
  - (b) Development be carried out in accordance with plans submitted (an approved plans condition)**
  - (c) Provision of a cycle store**
  - (d) Water efficiency details as agreed and; subject to completion of a suitable agreement to mitigate impacts on the Solent Special Protection Area.**

**25. 24/01425/FUL - 95 Queens Road. Portsmouth PO2 7LT (AI 6)**

The Head of Development Management introduced the report which was for the change of use from a dwellinghouse (Class C3) to a 7-bed/7-person House in Multiple Occupation.

He drew attention to the information in the SMAT, which did not change the officer recommendation.

Deputation

- Joao Virtudes (agent).

Members' Questions

In response to Members' Questions, officers provided the following information as clarification:

- The property was not currently licensed. If members wanted to ensure that no more than 7 people occupied the property, they could condition this.



- Natural light was available to bedroom 7 through the rear window. Officers were satisfied that there would be adequate light and outlook for the occupier of that room, and this was evident from the photo.
- In bedroom 1, the dotted line indicated the area of the slope of roof where there was a lower head height. The space in the room was still sufficient.
- The yellow dots on the local plan of HMOs indicated commercial properties.
- The depth of the garden would comfortably allow for a bike store to accommodate four bikes. The store was shown on the side elevation of the plans, at the end of the garden.
- Illegal HMOs in the area were not included in the percentage count to discourage applications jumping the queue and in order not to reward someone for operating an HMO without consent. These would be investigated by the team. Officers were satisfied their HMO data count was accurate.
- The width of the rear of the property was 2.3 metres. Bicycles would have to come through that area to reach the back garden, but this would apply with the existing Class C3 use.
- The property did not have a balcony on the second floor.

#### Members' Comments

Members were concerned at the narrowness of the back of the property in terms of taking bicycles through when residents were using that room. Officers noted that Planning inspectors consider that would only be a temporal conflict and had upheld appeals on this matter.

**RESOLVED that conditional permission be granted subject to conditions for time limit, approved plans, cycle storage, waste storage, water efficiency and PD works.**

#### **26. 24/01481/FUL - 129 New Road, Portsmouth PO2 7QS (AI 7)**

The Development Management Lead introduced the report which was for the change of use from a dwellinghouse (Class C3) to a 7-bed/7-person House in Multiple Occupation.

He drew attention to the information contained in the SMAT which did not change the officer recommendation but updated condition 2 - Approved plans.

#### Members' Questions

In response to Members' Questions, officers provided the following information as clarification:

- The measurements of bedroom 6 did include the slight 'nip' in the shape of the room.

- The measurement of bedroom 3, excluding the corridor area was 9.75m<sup>2</sup>.

Members' Comments

Members considered that due to bedroom 3 being smaller than the required space standards the application should be refused.

Officers stressed that a minor failure against the standard did not automatically equate to a strong reason to refuse the entire scheme and advised members to proceed with caution. The professional advice was that there had been appeal decisions with rooms at 9m<sup>2</sup> or 9.6m<sup>2</sup> and the inspector had considered that to be a minor failure and did not feel it was harmful.

Members noted that they are urged to agree applications when the space standard is only just met or only just over, so felt this should also apply in the opposite direction, to refuse an application when it was under the standard. Members were tasked to consider the quality of life of people living in the buildings.

The legal advisor noted that properties can have rooms of a smaller size, such as single rooms at 6.51m<sup>2</sup> but they then require a larger communal area.

**RESOLVED that planning permission be refused, due to inadequate space in the proposed communal area due to not all proposed bedrooms being a minimum of 10m<sup>2</sup>, contrary to the adopted Houses in Multiple Occupancy Supplementary Planning Document**

The meeting concluded at 12.42 pm.

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Signed by the Chair of the meeting  
Councillor Gerald Vernon-Jackson CBE

# Agenda Item 4

24/01553/DOC

WARD:ST THOMAS

## **SOUTHSEA SEAFRONT FROM LONG CURTAIN MOAT IN THE WEST TO EASTNEY MARINE BARRACKS IN THE EAST**

**APPLICATION TO DISCHARGE CONDITIONS 2, 5A, 5B, 16, 21, 22, 24, 26, 17, 32, 33,34 AND 30A OF PLANNING PERMISSION 24/00987/VOC (PHASING PLAN, ARCHAEOLOGY, SOFT LANDSCAPING, EXTERNAL LIGHTING, STREET FURNITURE AND WALLS, HARD SURFACE MATERIALS, ROAD AND FOOTPATHS, EARTH BUND, SECONDARY DEFENCES, SCALE OF ROCK, PRIMARY DEFENCES AND APPROVAL OF SAMPLE FOR WORKS AT THE NAVAL MEMORIAL)**

**Application Submitted By:**  
Portsmouth City Council

**On behalf of:**  
Portsmouth City Council  
Coastal Partners on behalf of Portsmouth City Council

**RDD:** 30th December 2024

**LDD:** 25th February 2025

### **1.0 SUMMARY OF MAIN ISSUES**

- 1.1 The Southsea Coastal Scheme is a Flood and Coastal Erosion Risk Management (FCERM) scheme to upgrade the existing coastal defences along a 4.5km length of frontage at Southsea. It extends from Long Curtain Moat in the west to the Eastney Barracks in the east.
- 1.2 A planning application, 19/01097/FUL, for the flood defence works was submitted in July 2019. It constituted Environmental Impact Assessment (EIA) development and was accompanied by an Environmental Statement. It was determined by the Planning Committee on 4 December 2019 and planning permission granted, subject to conditions. The decision notice (dated 5 December 2019) includes the conditions worded such that the required information could be submitted and approved prior to each phase of flood defences commencing.
- 1.3 At the Planning Committee meeting for the original full application, Members discussed how they were keen to ensure that the public participated in the development of the finer design details such as materials, landscaping, public art and street furniture. They also requested that certain conditions, those related to these public realm elements, came back to Members for a decision, rather than being determined by the case officer. Those conditions were: 17 (soft landscaping), 22 (lighting), 23 (street furniture), 25 (hard surfacing), 26 (feature walls), 27 (roads and footpaths) and 38 (public art and interpretation). These condition numbers have subsequently been updated since the original decision notice was issued. The new numbers are 16 (soft landscaping), 21 (external lighting), 22 (street furniture), 24 (hard surfacing), 25 (feature walls), 26 (roads and footpaths) and 35 (public art and interpretation).
- 1.4 Since the original approval, there have been three subsequent approvals under Section 73 of the Town and Country Planning Act 1990, seeking minor amendments to sub-frontage 4 (Ref. 21/00820/VOC), sub-frontage 5 West (Ref 22/01720/VOC) and sub-frontage 3 (Ref 23/00896/VOC). A further S73 application was submitted in August 2024 for minor material amendments to sub-frontage 2, and the far western end of sub-frontage 3) (Hover Travel to Kings Bastion), which was subsequently approved on 4th December 2024 (Ref 24/00987/VOC ). An additional permission was also granted on 4th Dec for proposed works that fall outside of the original red line boundary (Ref

24/00989/FUL). Conditions associated with this permission will be discharged at a later date.

- 1.6 The conditions on the original planning decision notice, and those repeated on the new S.73 decision notices, were drafted such that the required information could be submitted and approved prior to each phase commencing. Coastal Partners are now seeking to re-discharge the relevant planning conditions, to account for design changes to the SF2/3 interface approved on 4th December 2024 (included as part of the Phase 4 construction).

## 2.0 SITE DESCRIPTION

- 2.1 The Southsea Seafront stretches for 4.5 km from Long Curtain Moat in the west to Eastney Esplanade in the East. This application relates to the southwestern end of sub frontage 3 (SF3) which is the section between Clarence Pier and the RN Memorial as shown highlighted below. :



## 3.0 POLICY CONTEXT

The relevant policies within the Portsmouth Plan (2012) would include:

- PCS9 (The Seafront)
- PCS12 (Flood Risk)
- PCS13 (A Greener Portsmouth)
- PCS14 (A Healthy City)
- PCS16 (Infrastructure and community benefit),
- PCS17 (Transport)
- PCS23 (Design and Conservation)

and saved policy DC21 (site contamination) of the Portsmouth City Local Plan.

The draft Pre-Submission Portsmouth Local Plan 2020-2040 was endorsed at full council on 28 May 2024 and consultation on the Pre-Submission Local Plan closed in September 2024.

Policies relevant to this application include:

- Core Policy PLP1: Design
- Core Policy PLP2: Climate Emergency
- Strategic Policy PLP31: Flooding
- Development Management Policy PLP36: Coastal Zone
- Strategic Policy PLP47: Movement and Transport
- Development Management Policy PLP48: Access and Parking
- Development Management Policy PLP49: Public Realm
- Strategic Policy PLP53: Historic Environment
- Development Management Policy PLP54: Listed Buildings
- Development Management Policy PLP55: Conservation Areas
- Development Management Policy PLP56: Archaeology

However at this time, having regard to the NPPF paragraph 48, limited weight is given to those policies.

The application site also falls within the area covered by the Seafront Masterplan SPD (2021).

#### 4.0 STATUTORY DUTIES

4.1 The Local Planning Authority has statutory duties relating to the determination of the application which are set out in the following legislation:

- i. Section 70 of The Town and Country Planning Act 1990
- ii. Section 38(6) of The Planning and Compulsory Purchase Act 2004
- iii. The Equality Act 2010

#### 5.0 RELEVANT PLANNING HISTORY

5.1 Of relevance to the determination of this application is 24/00987/VOC which gained approval under Section 73 of the Town and Country Planning Act 1990 to amended plans primarily relating to sub frontage 2 (Clarence Pier) and is accompanied by the original environmental statement [July 2019] with the first addendum [May 2021], second addendum [December 2022] third addendum October 2023) and new addendum [August 2024] and updated appendices.

#### 6.0 PROPOSAL

6.1 Approval is sought for the discharge of 13 conditions of planning permission 22/01720/VOC.

6.2 At the Committee's request, five conditions addressing public realm elements are brought for consideration, as set out below:

Condition No	Text & Reason	Documents submitted
16	Soft Landscaping Scheme No development shall take place within each approved phase until there has been submitted to and approved by the Local Planning Authority a scheme of tree and any other relevant soft landscaping works; the scheme shall specify species, planting sizes, spacing and numbers of trees/shrubs to be planted in the area of that phase. The approved tree works (and other planting where relevant) shall be carried out in the first planting season following the completion of the development within each approved phase. Any trees or plants which, within a period of 5 years from the date	

	<p>of planting in each approved phase, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.</p> <p>Reason: In the interests of visual amenity, to protect the biodiversity of the site and preserve the character and appearance of the 'listed' park/conservation areas and the setting of other heritage assets, in accordance with policies PCS13 and PCS23 of the Portsmouth Plan (2012) and the aims and objectives of the NPPF (2019).</p>	
21	<p><b>External lighting</b> No development shall take place in each approved phase until details (including siting/alignment, type and appearance including materials/finishes) of the proposed external lighting (including any proposed decorative/festoon feature lighting) in the area of that relevant phase have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried in strict with the approved details.</p> <p>Reason: To preserve the character and appearance of the listed park and conservation areas and the setting of other designated heritage assets across the whole of the site addressing an existing uneven distribution along the promenade and enhancing the sense of safety for all users by sub-frontage, in accordance with policies PCS9, PCS17 and PCS23 of the Portsmouth Plan (2012) and the aims and the objectives of the NPPF (2019).</p>	
22	<p><b>Street Furniture and walls</b> No development shall take place in each approved phase until details (including siting/alignment, type and appearance including materials/finishes) of the proposed street furniture and secondary defence walls (including include refuse bins, signage, seating, bollards, railings and other means of enclosure) in the area of that relevant phase have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried in strict with the approved details.</p> <p>Reason: To preserve the character and appearance of the listed park and conservation areas and the setting of other designated heritage assets across the whole of the site, in accordance with policies PCS9 and PCS23 of the Portsmouth Plan (2012) and the aims and the objectives of the NPPF (2019).</p>	
24	<p><b>Hard Surfacing Materials</b> No works shall take place at each approved phase which involves the provision of promenade or other hard surfacing materials until details of the materials to be used in the relevant area have been submitted for the prior written approval of the local planning authority. Thereafter the works shall be fully implemented in accordance with the approved details. The details for approval shall include a detailed scheme of (a) type/texture/colour finishes (including any samples as may be necessary) including natural stone blocks at key public realm and historic areas; and (b) the proposed pattern treatments to add local distinctiveness within the floorspace at key public realm areas.</p> <p>Reason: To preserve the character and appearance of the listed park and conservation areas and the setting of other designated</p>	

	heritage assets across the whole of the site and deliver attractive textural interest to the public realm by sub-frontage, in accordance with policies PCS9, PCS17 and PCS23 of the Portsmouth Plan (2012) and the aims and the objectives of the NPPF (2019).	
26	<p>Roads and Footpaths</p> <p>No development shall take place on each approved phase at the site until the following details, relevant to the area within that phase, have been submitted to and approved in writing by the Local Planning Authority:- (i) a specification of the type of construction for the roads and footpaths, including all relevant horizontal cross -sections and longitudinal sections showing the existing and proposed levels, together with details of materials, sightlines and kerbs, street lighting and the method of disposing surface water; (ii) a programme for constructing the roads and footpaths; and, (iii) details and specifications for the proposed works to car parks, including final finished levels and layout of spaces.</p> <p>Reason: To ensure that the roads/footpaths are constructed to an appropriate standard in the interests of highway safety, to create a safe and attractive environment and to preserve the character and appearance/setting of the array of designated heritage assets across the site, to accord with policies PCS17 and PCS23 of the Portsmouth Plan (2012) and the aims and the objectives of the NPPF (2019).</p>	

Please note that Condition 25 (Feature Walls) and 35 (Public Art and Interpretation Boards) are not relevant to this phase of the sub frontage.

## 7.0 CONSULTATIONS

7.1 Responses have been received from:

- i. Landscape Group - The landscape proposals are very comprehensive and demonstrate a well-considered and nicely developed package of work. I am pleased to see the quality of design intention in the paving, seating, materials and lighting, which reflects the detailing of previously delivered sub-frontages at Long Curtain Moat, the Castle and in front of the Rock Gardens. Design elements are notably robust and should cater well to the tough marine environment.

I am encouraged to see the planting palette for the terraces in the eastern end but am cautious about how successful the planting will be given the difficulty of establishing plants at Long Curtain Moat. I think careful review and monitoring of what succeeds and what doesn't in the first year will allow for replanting to infill gaps and select the hardiest of the species for future years.

I have voiced concern about the tree species selected before but note that the designers have kept these species in the palette: *Alnus glutinosa* "Laciniata" and *Acer campestre* "Red Shine". I tried establishing the *Alnus* species at the Park & Ride some years ago but all of the 5 trees died. I'm not sure what killed them off, but the site is quite exposed, and I suspected the trees did not fare well with salt laden winds. I would suggest that the *Alnus* and *Acer* trees be used as a trial and if they fail in the first two years that they should be replaced with hardier species more suited to the maritime location. Alternate species such as *Ulmus* (the disease-resistant clones) have done very well on the seafront.

- ii. Historic England - No advice offered.

- iii. Heritage Consultant - Any comments received will be reported at the meeting.
- iv. King's Harbour Master - No objections
- v. The Gardens Trust - no further comments
- vi. Regulatory Services - No comment
- vii. County Archaeologist - No objections

## **8.0 REPRESENTATIONS**

- 8.1 No third-party representations have been received. Applications for details reserved by planning condition(s) are not normally subject to publicity. Discretionary publicity by site notices were displayed seeking comments by 14 February 2025.

## **9.0 PLANNING CONSIDERATIONS / COMMENT**

### Condition 16 - Soft Landscaping Scheme

- 9.1 The applicant has stated that in response to public feedback, additional areas of soft landscaping have been incorporated into the scheme in this section. Raised planters to edge the back of the promenade seaward of the Rock Gardens will be installed along with large sunken boulders. Planted terraces will soften the area seaward of the Lifeguard building and The Briny, with more terraced planting at Speakers Corner. The scheme has also been amended to respond to the Landscape Group's comments.
- 9.2 The introduction of this planting will help to soften the general appearance and transition in levels along this section. The planting has been chosen to reflect the existing character of vegetated shingle along the seafront.
- 9.3 The planting bed will be made up of varying depths of flint gravel, providing a natural barrier against weeds and reducing future maintenance requirements.
- 9.4 There are three distinct species habits – evergreen, seasonal and annual wildflowers. The palette has been designed for the evergreen species to provide year-round structure and colour. The seasonal plants are a mixture of those existing on the local beaches and additional plants with biodiversity interest. The annual wildflowers should be seen as providing sparks of colour throughout the year, their flowering periods will ebb and flow, changing locations year after year as they self-seed and colonise.

### Condition 21 - External Lighting

- 9.6 Listed Building Consent has been granted for the removal and reinstatement of the historic lamp columns within the extent of sub-frontage 3 and the western extent of sub-frontage 4. These will be spaced at appropriate intervals, with new, modern lighting placed along the new buffer strip between the cycle lane and parking. These new, modern lamp columns will provide the appropriate level of lighting. The details regarding the methods of removal, refurbishment and reinstatement of the historic lamps are all covered by a separate condition not covered by this statement (Condition 28).
- 9.7 A selection of four types/heights of modern lighting columns will be used throughout this phase, in addition to the historic lamps:
- 7m lighting columns with a metal, powder coated finish (drawing code LCL7)
  - 5m lighting columns with a metal, powder coated finish (drawing code LCL5)
  - 5m timber lighting columns (drawing code LC1B)
  - 7m lighting columns with a metal, powder coated finish (drawing code LCSO7)
- 9.8 The 5m timber columns (LCL5) feature along the promenade in front of the Naval War Memorial. The 7m metal 'stick' columns (LCL7) are then used as the main functional



lighting columns, interspersed with the historic lamps. They are set further back on the promenade to allow the significance of the historic lamps to be maintained (adjacent to the highway). The remaining columns (LCL1B and LCSO7) are used when appropriate on the open land west of Blue Reef Aquarium.

- 9.9 The proposed details of all lighting columns and design details, which can be found in Appendix D (Lighting Plans) of the Condition Discharge Statement available to view on the website, are considered acceptable.

Condition 22 - Street Furniture and walls

- 9.10 As per the condition, details of materials proposed for the street furniture and secondary defence walls have been submitted. The street furniture for Phase 4/sub-frontage 3 follows the style and design of that already approved for other frontages of the scheme to ensure a consistent appearance along the seafront. Within this overall style though, each sub-frontage has bespoke features that have been designed for the specific character and context of the location. As for the previous street furniture proposals, everything has been designed and selected to both provide resistance to the harsh exposed coastal conditions of Southsea and complement the existing environment. This condition includes all proposed street furniture, including seating, balustrading and handrails, bins, and any play area features. Lighting is considered under a separate condition

- 9.11 The details of the proposed street furniture includes:

- Seating:  
As per previous phases, the seating design comprises a mix of softwood timber benches in a variety of bespoke styles and configurations. Some are stand-alone and some are built onto the terraces and secondary defence walls. The full proposed details can be found on the submitted plans.

The mix of seating, and in particular the terraced seating, is considered to help create a sense of place for this section; the applicant hopes that Speakers Corner will become a focal point and destination, rather than somewhere to pass through

- Balustrading and handrails:  
The design has been kept simple, with the provision of anodised aluminium to overcome existing problems of rust encountered by using steel and stainless steel. The handrails that accompany the various pedestrian steps are the same design as at SF1, consisting of powder-coated aluminium in RAL7044, with a clear coated kebony handrail top. The balustrading along the landward edge of the vehicle access ramp is a simple metal post and tension cable design in RAL 7044.
- Bollards:  
There are three different types of bollards that feature along this section: removable, timber and seating cubes.
- Bins:  
Powder coated bins that do not clutter the promenade will be provided, to match the other metal work.
- Life buoy:  
To be provided as per the submitted plans.
- Cycle stand:  
To be provided as per the submitted plans

- 9.13 The proposed details, summarised above are considered to be acceptable.

#### Condition 24 - Hard Surfacing Materials

- 9.12 The hard surfacing materials were discussed in great detail with Historic England in relation to the sections of the scheme around Long Curtain Moat and Southsea Castle, two scheduled monuments. It was agreed that two surface finishes would be used, one for around these significant heritage assets and one for the remaining promenade. Both finishes were an in-situ decorative aggregate but with different etched finishes. The 'historic' finish was a smoother 0.5mm etch, with the 'normal' promenade being a 3mm etch. This ensures that the historic areas are clearly visible, and that the seafront is coherent as a whole. The plate below (extracted from the application document) shows the approved two types of finish (the left and right photos).



*Figure 14: In-situ decorative surfacing etch and aggregate finishes ranging from the 0.5mm (left) to approx. 3mm (right)*

- 9.13 The shingle to be used in the aggregate finish is a locally sourced bespoke Southsea mix to ensure the finish blends well with the local context.
- 9.14 In terms of future maintenance requirements, the surfacing will outlast any other surface that could be used within such a harsh marine environment. By removing the requirement and reliance for regular future maintenance visits and repairs, the applicant is ensuring that a high-quality setting to the seafront is achieved and retained, for as long as possible
- 9.15 The full details of the proposed hard finishes can be found within the plans in Appendix F (Hard Works Plans) of the Condition Discharge Statement. These are summarised below and are considered to be acceptable.
- Promenade surfacing – 3mm etch exposed aggregate finish, Southsea shingle mix, (matches SF1 surfacing east of Spur Redoubt and SF4 surfacing east and west of Southsea Castle).
  - Naval War Memorial – Directly in front of the Naval War natural York stone paving will be used.
  - Primary/secondary defence walls – smooth concrete in warm white (matches SF1 and SF4 primary defence walls)
  - Cycle lane – coloured tarmac, buff, 6mm • Buffer strip – smooth asphalt surfacing
  - Highway – asphalt surfacing (except in front of the Naval War Memorial). In front of the Naval War Memorial the highway will consist of granite sett pavers.

#### Condition 26 - Highway Layout

- 9.16 The highway layout remains as per the approved plans submitted with planning application ref 23/00896/VOC. The highway layout consists of the following:
- 1 way west bound traffic carriageway. The carriageway width will predominantly be 4.2m wide, reducing locally to 3.2m in front of the Naval War Memorial.
  - A mixture of echelon and parallel parking.
  - 3m two-way cycleway, with an additional 2m buffer strip between the cycleway and the parking. The trafficked areas are segregated from the adjacent promenade and cycle lanes.
- 9.17 The construction of this section is expected to take place from mid October 2025 to mid - July 2026, however these timescales are indicative and subject to change.
- 9.18 The full layout of the highway is shown in Appendix G (Highways Plans)

#### **10.0 Conclusion**

10. On the basis of the information submitted with the application pursuant to these conditions and to their consideration above, the details submitted in respect of Conditions 16, 21, 22, 24 and 26 for this phase only are considered acceptable.
- 10.2 It should be noted that this application also seeks Officer delegated approval for the details submitted pursuant to the following conditions:
- Condition 2 - Phasing Plan
  - Conditions 5a and 5b - archaeology
  - Condition 17- earth bund
  - Condition 32 - secondary defences
  - Condition 33 - scale of rock
  - Condition 34 - Scale of Primary defences

#### **RECOMMENDATION**

**Approve details submitted pursuant to Conditions 16, 21, 22, 24 and 26**

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# Agenda Item 5

25/00069/FUL

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133 Stubbington Avenue Portsmouth PO2 0JF

**CHANGE OF USE FROM DWELLINGHOUSE (CLASS C3) TO 8BED/8PERSON HOUSE OF MULTIPLE OCCUPATION (SUI GENERIS)**

[25/00069/FUL | CHANGE OF USE FROM DWELLINGHOUSE \(CLASS C3\) TO 8BED/8PERSON HOUSE OF MULTIPLE OCCUPATION \(SUI GENERIS\) | 133 STUBBINGTON AVENUE PORTSMOUTH PO2 0JF](#)

**Application Submitted By:**

Mr Joao Virtudes  
ArchiGold Design LTD

**On behalf of:**

NEXTGEN LETTINGS LTD

**RDD:** 24th January 2025

**LDD:** 9th April 2025

**1. SUMMARY OF MAIN ISSUES**

1.1 This application is brought before Planning Committee due to the number of neighbour representations received and due to call-in requests from Councillor Swann and Councillor Dent.

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

- Principle of development
- Standard of accommodation
- Impacts on amenity of the neighbouring residents
- Parking
- Waste
- Impact on the Solent Protection Area
- Community Infrastructure Levy (CIL)
- Human Rights and the Public Sector Equality Duty ("PSED"); and
- Other matters raised in the representations.

**2. SITE AND SURROUNDINGS**

2.1 The application site is a two-storey terraced dwelling in a predominately residential area, opposite the Church of the Ascension. Kings Academy College, and College Park Infants School, lie to the north between Croften and Lyndhurst Roads. Croften Road is one-way travelling south, and Lyndhurst Road is one-way travelling north, while bicycles are permitted both ways on both roads. The site is 585m from North End District Centre, which has a wide range of shops, services, buses and some employment. There are further shops at Ocean Retail Park, 1.065km to the east. There is significant employment at the industrial/commercial areas to the north-east. The site is 465m from College Park.

**3. THE PROPOSAL**

3.1 Planning permission is sought for the change of use of the property from a dwellinghouse (Class C3) to 8-bed/8-person House in Multiple Occupation (Sui Generis).

3.2 The application would retain bin storage in the front forecourt and bike storage would be accommodated in the shed in the rear garden - the site includes a direct rear pedestrian alley, from Croften Road.

- 3.3 The submitted plans also include details of a single storey rear extension, rear dormer and the installation of three rooflight. The extension has been granted Prior-Approval under 24/00075/GPDC and the dormer and rooflights comply with Classes B and C, Part 1, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). These works are to be carried out prior to the occupation of the property as a House in Multiple Occupation and therefore are not considered within this application. In order to ensure that these works are fully undertaken prior to the occupation a condition is included within the recommendation.
- 3.4 The submitted floor plans have been amended within the life of the Application in order to move an internal wall and thereby increase the floorspace available to Bedroom 2.



Figure 1 Proposed Elevations showing extensions and rooflights

#### 4. PLANNING HISTORY

- 4.1 **24/00075/GPDC**, Construction of single storey rear extension; extending 6m from the rear wall, with a maximum height of 2.8m and measuring 2.6m to the eaves.  
**Prior approval not required.**  
**06/01/2025.**
- 4.2 **25/00063/CPL**, Application for certificate of lawful development for proposed rear single storey extension and dormer to rear roofslope.  
**Certificate granted.**  
**04/03/2025.**

#### 5. POLICY CONTEXT

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications must be determined in accordance with the development plan for an area, except where material considerations indicate otherwise. The development plan in this case comprises the Portsmouth Plan (2012) and the saved policies of the Portsmouth City Local Plan (2006).

5.2 The following policies are of particular relevance in this case:

**The Portsmouth Plan (2012)**

- PCS17 - Transport
- PCS20 - Houses in Multiple Occupation
- PCS23 - Design & Conservation

**Pre-Submission Portsmouth Local Plan 2020-2040**

The draft Pre-Submission Portsmouth Local Plan 2020-2040 was endorsed at full council on 28 May 2024 and consultation on the Pre-Submission Local Plan closed in September 2024.

- PLP1: Design
- PLP20: Houses in Multiple Occupation
- PLP22: Space Standards
- PLP47: Movement and Transport
- PLP48: Access and Parking

5.3 Having regard to the NPPF paragraph 49 and the stage the emerging plan has reached in its preparation, limited weight is given to the above policies at this precise time.

**5.4 Supplementary Planning Documents**

5.5 The following have been adopted by the Council as Supplementary Planning Documents and are relevant to the proposals;

- Updated Interim Nutrient Neutral Mitigation Strategy for New Dwellings (2022)
- Houses in Multiple Occupation (HMOs) (2019) - ('the HMO SPD')
- Solent Recreation Mitigation Strategy (2017)
- The Parking Standards and Transport Assessments Supplementary Planning Document (2014)

**5.6 National Guidance**

- National Planning Policy Framework (2024)
- National Planning Practice Guidance
- The Technical Housing Standards - nationally described space standards (2015)

**6. CONSULTATIONS**

6.1 Private Sector Housing: the property needs a licence under Part 2, Housing Act 2004.

6.2 Highways: Stubbington Avenue is a predominantly residential road with bus stops and local amenities in close proximity. The proposal seeks to convert an existing 3 bed residential (c3) to a 8 bed Sui Generis use. The size of development would not lead to a material impact to the function of the highway or result in any unacceptable safety impact. Given the additional bedrooms, there may be increase insistences of vehicles hunting for space in the vicinity, this is however an issue of residential amenity for your consideration. Request a condition for bike storage.

## 7 REPRESENTATIONS

7.1 Twenty-six objections (as of 11/3/25) have been received in respect of the proposals. Two of the objection letters were provided without the postal address of the objectors. There are call-in requests from Councillors Swann and Dent, stating that residents wish for the case to be discussed at Planning Committee.

- Number of HMOs in the area and city already. Request for a change in Policy from 10% to 5% for the threshold for HMO Applications;
- Damage and disruption from building works;
- Loss of property value;
- Impact on parking - highway safety, air quality, emergency services access;
- Impact of local character and heritage;
- Impact from noise of the development;
- Impact of local services, including the sewer network;
- Increase instances of anti-social behaviour and crime;
- Proximity to local schools - due to traffic and safeguarding concerns;
- Loss of light from the extension to the adjoining neighbour;
- Safety and security from rear access gate being left open - noise from it being opened and closed late into the night;
- Lack of clarity in the plans, uncertainty around room sizes and if Bedroom 2 has over 75% of full height;
- Standard of accommodation and under provision of communal space;
- Loss of trees at the rear of the site;
- Loss of biodiversity;
- Increase from waste at the site;
- Loss of family housing within the city;
- Impact on the Solent Special Protection Area;
- Lack of notification for residents along Crofton Road;
- Concerns that the Prior-Approval Application is not lawful - due to the original floorplans showing a snug as opposed to a bedroom;
- Concerns over the accuracy of the plans due to lack of front door and queries over windows alignment on elevations against the floorplans;
- Overdevelopment of the site;
- Lack of clarity in the Application form over foul water disposal; and
- Fire safety.

## 8. COMMENT

8.1 The main issues to consider in the determination of this application are:

- Principle of development
- Standard of accommodation
- Impacts on amenity of the neighbouring residents
- Parking
- Waste
- Impact on the Solent Protection Area
- Community Infrastructure Levy (CIL)
- Human Rights and the Public Sector Equality Duty ("PSED"); and
- Other matters raised in the representations.

8.2 Principle

8.3 Five-year Housing Land supply.

8.4 The National Planning Policy Framework (NPPF) states that planning decisions should be based on a presumption in favour of sustainable development (paragraph 11). That



presumption does not apply (Footnote #7) where the project is likely to have a significant effect on a 'habitats site' (including Special Protection Areas) unless an appropriate assessment has concluded otherwise (paragraph 195). Where a local planning authority cannot demonstrate a five-year housing land supply of deliverable sites, the NPPF deems the adopted policies to be out of date and states that permission should be granted for development unless:

- I. the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed, or
- II. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination

8.5 Currently, the Council can demonstrate 4.97 years supply of housing land. The starting point for determination of this application is therefore the fact that the authority cannot demonstrate a five-year supply of housing. This development would provide additional residential occupation in the building and make a small contribution towards the City's housing needs, at a sustainable location in the city, with good public transport, retail and services, employment, leisure, health facilities, etc. These factors weigh in favour of the proposed development. The further, specific impacts of the proposal must still be considered as to whether the development is appropriate in detail, as set out below.

#### 8.6 HMO Use

8.7 Planning permission is sought for the change of use of the property from a dwellinghouse (Class C3) to an 8-bedroom HMO (House in Multiple Occupancy) for 8-persons.

8.8 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.

8.9 Based on the information held by PCC, of the 35 properties within a 50-metre radius of the application site, none are confirmed HMOs as shown on the plan below. The percentage of HMOs within the area, should permission be granted, would be 2.86%. This falls well below the 10% threshold above which an area is considered to be imbalanced and in conflict with Policy PCS20.



**Figure 2** 50m radius search results.

- 8.10 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 with this part of the guidance caused by this proposal.
- 8.11 Having regard to the above, the proposal would comply with the aims and objectives of Policies PCS19 and PCS20 of the Portsmouth Plan (2012).
- 8.12 Standard of accommodation
- 8.13 The application seeks to use the property as a 8-bed/ 8-person HMO. The submitted plans have been checked by officers, and, notwithstanding the annotations on the submitted plans, the room sizes measured by officers have been used for assessment purposes. For the proposed HMO use, the room sizes have been assessed against the space standards for an HMO as shown below.

Room	Area Provided:	Size provided for in Guidance:
Bedroom 1 (Second floor)	10.05m <sup>2</sup>	10m <sup>2</sup>
Ensuite B1 (Second floor)	2.75m <sup>2</sup>	2.74m <sup>2</sup>
Bedroom 2 (Second floor)	15.27m <sup>2</sup>	10m <sup>2</sup>
Ensuite B2 (Second floor)	2.75m <sup>2</sup>	2.74m <sup>2</sup>
Bedroom 3 (First floor)	10.33m <sup>2</sup>	14m <sup>2</sup>
Ensuite B3 (First floor)	2.75m <sup>2</sup>	2.74m <sup>2</sup>
Bedroom 4 (First floor)	10.38m <sup>2</sup>	10m <sup>2</sup>

Off suite B4 (First floor)	2.75m <sup>2</sup>	2.74m <sup>2</sup>
Bedroom 5 (First floor)	11.06m <sup>2</sup>	10m <sup>2</sup>
Ensuite B5 (First floor)	2.75m <sup>2</sup>	2.74m <sup>2</sup>
Bedroom 6 (Ground floor)	11.61m <sup>2</sup>	10m <sup>2</sup>
Ensuite B6 (Ground floor)	2.84m <sup>2</sup>	2.74m <sup>2</sup>
Bedroom 7 (Ground floor)	13.21m <sup>2</sup>	10m <sup>2</sup>
Ensuite B7 (Ground floor)	2.75m <sup>2</sup>	2.74m <sup>2</sup>
Bedroom 8 (Ground floor)	11.87m <sup>2</sup>	10m <sup>2</sup>
Ensuite B8 (Ground floor)	2.75m <sup>2</sup>	2.74m <sup>2</sup>
Combined Living Space (Ground floor)	28.63m <sup>2</sup>	22.5m <sup>2</sup>



Figure 3 Proposed floorplans

8.14 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 the communal space. 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 22.5m<sup>2</sup>) for combined living accommodation in circumstances where all bedrooms are at least 10m. In this instance, the communal room exceeds the minimum size standard. 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

- 8.15 All habitable rooms have good access to natural light and in addition, a small rear garden also provides external amenity space for the residents. All the 8 bedrooms would have ensuite facilities, the accommodation therefore would provide a suitable overall arrangement of sanitary facilities.
- 8.16 The proposed layout complies with the Council's adopted standards and Policy PCS20.
- 8.17 Impact on residential amenity of the neighbours
- 8.18 In terms of the impact on the living conditions of the adjoining occupiers, it is considered that the level of activity that could be associated with the use of any individual property as a dwellinghouse (Class C3) which involves occupation by a single family, would be unlikely to be significantly different from the occupation of the property by up to eight unrelated persons as a house in multiple occupation.
- 8.19 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. PCC's report on Shared Housing in Portsmouth: An Assessment of Demand, Supply and Community Impacts (2012) provides an overview of the negative impacts of HMO concentrations on local communities and point 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 more HMO would not be significantly harmful.
- 8.20 Having regard to this material consideration, the impact of the change of use would not be significant on residential amenity. The scheme therefore complies with Policy PCS23 in this regard.
- 8.21 Parking
- 8.22 Properties in HMO use with four or more bedrooms are required to provide two parking spaces which is the same as properties in C3 use class with four or more bedrooms (Parking Standards SPD 2014). The proposal has no off-street parking, which is no change from the fallback position.
- 8.23 Given the above, it is considered that refusal on a lack of parking is not reasonable or defensible. It should be noted that the property could be occupied by a large family with adult children, each potentially owning a separate vehicle, or even more than one vehicle each. In addition, it is considered that the site is within an area of good accessibility and located within an acceptable walking distance of the various amenities and services, and bus routes.
- 8.24 The Parking Standards SPD (2014) also specifies the expected level of cycle parking that should be provided for residential developments. A 4+ bedroom property has an expected demand for 4 cycle parking spaces. A bicycle storage facility for four bikes has been indicated in the back garden and this would be secured through a condition. The scheme therefore complies with Policy PCS17 in this regard.
- 8.25 Waste
- 8.26 The storage of refuse and recyclable materials would remain unchanged, to be accommodated in the suitable front forecourt area. An objection on waste grounds would not form a sustainable reason for refusal and it is not considered necessary to require details of formalised waste storage.
- 8.27 Impact on Special Protection Areas
- 8.28 As there is a measurable increase in occupancy from 2.4 persons (for a C3 dwelling) to 8 persons, mitigation for increased Nitrate and Phosphate Output into the Solent and

Recreational Disturbance to the SPA is required. Subject to Committee recommendation to approve, this will be completed following the resolution.

8.29 Community Infrastructure Levy (CIL)

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

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

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

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

8.34 Other matters raised by the objectors

8.35 It is not considered that the increase in occupation would result in a significant impact on the local sewer network, and this has been demonstrated by a Dismissed Appeal Decision (APP/Z1775/W/23/3330214) from last year for a proposed HMO on 61 St Chads Avenue. The Planning Inspector noted that "... *the construction, operation and maintenance of an adopted sewerage system is the responsibility of the statutory sewerage undertaker, in this case, Southern Water, and the sewerage undertaker has a legal duty under S94 of the Water Industry Act 1991 to provide an effective system of sewers in its area. These sewers become public sewers to which the owners/occupiers of premises, and the owners of private sewers, have a right to connect and thereby drain foul water regardless of any capacity issues*".

8.36 The development would accommodate up to eight people. Such an increase would not result in a material increase in the potential for anti-social behaviour, noise etc. compared to a single-family household and no evidence has been submitted to substantiate this claim.

8.37 The request for a different policy threshold for the percentage of HMOs in the 50m radius is a matter for the Local Plan process, for which public consultation took place last year. Until/unless alternative guidance is adopted, the adopted HMO SPD will continue to apply the 10% threshold. The HMO SPD exists to provide clarity to applicants and 3<sup>rd</sup> parties on the criteria the Council will apply to HMO applications. Where schemes can show they comply with the Council's stated guidance, applicants can have a reasonable expectation these will be supported in this regard.

8.38 Damaged caused due to building work is a private civil matter and if properly managed within the construction phase should be minimal to non-existent.

8.39 The impact upon the neighbouring property values is not considered material to the determination of this application.

- 8.40 The proposal would retain the overall frontage of the building, the site is not considered to be a formal heritage asset and therefore the work is considered not to have any negative impact on the heritage or character of the area.
- 8.41 The site's proximity to a school is not considered to place any constraint on of the use of the building as an HMO.
- 8.42 The extension is to be completed in accordance with Prior-Approval and is therefore not considered within the determination of this Application. It is noted that no objection was received in regard to the rear extension Prior-Approval Application.
- 8.43 The use of the property as a HMO should have no impact upon the safety and security of the rear access gate, occupants of a HMO have as much of an interest as any other occupant not to leave the gate unsecured.
- 8.44 The plans are considered to be accurate in regard to windows size and placement. Additionally, Bedroom 2 could achieve over 75% of its floorspace at full head height while still meeting the required space standard, however it is the Officers' view, that the space below full head height is still usable and beneficial, and it is better for the occupant to have this space than it be sectioned off behind an internal wall in order to meet this particular numerical aspect of the licensing regime.
- 8.45 The proposal would require the loss of one larger tree, and a smaller tree closer to the house, both within the rear garden. The trees are not designated under a TPO or within a Conservation Area and therefore the LPA has no control over their loss. The trees have been discussed with the Council's Arboricultural Officer who has confirmed that he does not consider the trees good candidates for designation, due it their location and type.
- 8.46 There is considered to be sufficient space within the front forecourt to facilitate the increase waste storage requirements for the site.
- 8.47 The proposal was publicised in accordance with the Council's Statement of Community Involvement, with a Site Notice and Letters to those adjoining premises.
- 8.48 The Prior-Approval did include the annotation of a 'snug' within its floorplans, however this is annotation only and is a level of detail is not required within a Prior-Approval submission, which only considers the physical works. The room can be put to whatever domestic use the occupiers wish.
- 8.49 Fire safety is managed through Building Control and Private Sector Housing and is therefore not material in this determination.

## **9. 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) (2024).

**RECOMMENDATION I** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to satisfactory completion of a legal agreement to secure:

- (a) satisfactory completion of a Legal Agreement necessary to secure the mitigation of the impact of the proposed residential development on Solent Special Protection Areas (recreational disturbance and nitrates) by securing the payment of a financial contribution. and conditions (below)

**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 agreed within one month 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 - Location and Block Plan - 24049 000; Site Plan - 24049 001; Proposed Elevations - 24049 201; Proposed Section - 24049 300 Rev. A ; and Proposed Floorplans - 24029 101 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, 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.

**Waste Storage:**

- 4) Prior to the first occupation of the property as a House in Multiple Occupation; refuse and recyclable materials storage facilities shall be provided at the site and shall thereafter be retained for the continued use by the occupants.

Reason: To ensure that adequate provision is made for the storage of refuse and recyclable materials in accordance with policy PCS15 and PCS23 of the Portsmouth Plan.

**Water Efficiency:**

- 5) The proposal hereby permitted shall not (unless otherwise agreed in writing with the LPA) be occupied until written documentary evidence has been submitted to and approved in writing by the Local Planning Authority demonstrating that the development has achieved a maximum water use of 110 litres per person per day as defined in paragraph 36(2)b of the Building Regulations (2010) (as amended). Such evidence shall be in the form of a post construction water efficiency calculator.

Reason: To ensure that the development complies with PCS15 of the Portsmouth Plan and does not exceed the scope of Nitrate Mitigation Credits purchased.

**PD works:**

- 6) The extensions shown on the plans (Ref: 24029 101 Rev A, and 24049 201) shall be completed prior to the first occupation of the property as an HMO.

Reason: To ensure the layout proposed is fully implemented and the accommodation is suitable for the proposed occupation in accordance with Policies PCS20 and PCS23 of the Portsmouth Plan (2012).



# Agenda Item 6

24/00596/FUL

WARD: HILSEA

81 Stubbington Avenue Portsmouth PO2 0JD

**CHANGE OF USE FROM A 6-BED/6-PERSON HOUSE IN MULTIPLE OCCUPATION TO A 7-BED/8-PERSON HOUSE IN MULTIPLE OCCUPATION; EXTENSIONS TO ROOF TO INCLUDE GABLE END BUILD UP AND REAR DORMER TO REAR ROOFSLOPE; CHANGES TO FENESTRATION OF EXISTING GROUND FLOOR EXTENSION**

**[24/00596/FUL | CHANGE OF USE FROM A 6-BED/6-PERSON HOUSE IN MULTIPLE OCCUPATION TO A 7-BED/8-PERSON HOUSE IN MULTIPLE OCCUPATION; EXTENSIONS TO ROOF TO INCLUDE GABLE END BUILD UP AND REAR DORMER TO REAR ROOFSLOPE; CHANGES TO FENESTRATION OF EXISTING GROUND FLOOR EXTENSION | 81 STUBBINGTON AVENUE PORTSMOUTH PO2 0JD](#)**

## **Application Submitted By:**

Mrs Carianne Wells  
Applecore PDM Ltd

## **On behalf of:**

Parham

**RDD:** 17.05.2024

**LDD:** 05.08.2024

## **1. SUMMARY OF MAIN ISSUES**

- 1.1 This application is brought before Planning Committee due to the number of objections as well as the request of Councillor Vernon-Jackson and Councillor Russell Simpson
- 1.2 The main issues for consideration in the determination of the application are as follows:
  - Principle of Development including compliance with policy
  - Acceptability of the external alterations in regard to design
  - Standard of accommodation
  - Impacts on Amenity including parking
  - Other material considerations

## **2. SITE AND SURROUNDINGS**

- 2.1 The application site is a two storey end of terrace dwelling with rooms in the roof in a predominately residential area. The proposal is on a corner plot to Fearon Road with strong elements of architectural featuring on both elevations fronting the highways. The property has an existing ground floor, flat-roofed extension which sits on the back of pavement to Fearon Road. To the rear a dropped kerb which serves an off-road parking space in the former back garden. The side extension and access ramp were built for the former doctor's surgery.
- 2.2 The site is 400m from North End District Centre, which has a wide range of shops, services, buses and some employment. There are further shops at Ocean Retail Park, 1.25km to the east. There is significant employment at the industrial/commercial areas to the north-east. The site is 650m from College Park.

## **3. PROPOSALS**

- 3.1 The Applicant has sought planning permission for the change of use of the dwelling from the current lawful use of as a HMO with up to six individuals living together to allow up to 8 individuals to live together as an HMO. This change in occupancy would involve the re-configuring of Bedroom 6, and the formation of an extra bedroom in a new second storey, formed by a hip-to-gable roof extension to the Fearon Road elevation, and an

adjoining rear roof extension, both to be clad in tile hanging, with a matching brick for the gable end. The new bedroom would be for occupation by two persons. Changes to the ground floor fenestration are limited to a new window would be inserted into the kitchen, facing north across the retained parking bay. A fence would be erected adjacent to secure the bike store and access to the back door, while leaving the off-street parking bay open to the dropped kerb and street on Fearon Road. The Applicant has stated that the parking space would be for the use of one of the HMO's occupiers, as existing.

- 3.2 For completeness, the application was originally for an eight bedrooomed, eight-person HMO, achieved through a rear first floor extension (one new bedroom), and the two roof extensions (a second new bedroom). The first floor extension was removed from the application at the officer's request. The applicant wished to retain the number of occupants at eight, and so now proposes the new roof room to be double-occupancy. A number of other more minor alterations have been carried out during the course of the application.

#### **4. PLANNING HISTORY**

4.1 **20/00083/FUL**  
**Conditional Permission**  
**28.07.2021**

Change of use from Surgery (Class D1) to purposes falling within Class C3 (dwelling house) or Class C4 (house in multiple occupation)

- 4.2 A series of applications for the doctor's surgery, 1964 - 2012, including the ramp and extension.

#### **5. CONSULTATIONS**

- 5.1 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.
- 5.2 Highways: No objection - Stubbington Avenue is a residential road with parking accommodated through unrestricted on street parking, amenities are available in close proximity. It is not considered the addition of two bedrooms would lead to a material impact to the function of the highway. There may be increase insistences of vehicles hunting for space in the vicinity, this is however an issue of residential amenity for your consideration of the application. Condition required for secure cycle storage

#### **6. REPRESENTATIONS**

- 6.1 Letters to adjoining properties were sent on 11.06.24. A Site Notice were erected outside the site on 13.06.24.
- 6.2 12 objections have been received to the application. 5 of these letters were provided without the postal address of the objector.
- 6.3 The following points have been raised in objection to the scheme:
- Lack of car parking provision leading to an increase in traffic and exacerbation of existing on-street parking problems
  - Undue strain on local services and infrastructure, including the sewage, drainage, waste management and Doctors/Dentists
  - Impact of anti social behaviour
  - Unhappy with planning history and 'stacking' applications
  - Overdevelopment of the site including issues with room sizes and communal areas
  - Loss of family dwelling and impact on the community

- Density of HMOs in surrounding area
- Substandard living accommodation
- Impact on character of area
- Overshadowing, overlooking, loss of privacy and impact on neighbour amenity

The following matters were raised which are not material planning considerations to this application:

- Biodiversity net gain
- 10% radius test should be lowered to 5% or otherwise changed
- Loss of property value
- Fire and associated health and safety risks

## 7. POLICY CONTEXT

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications must be determined in accordance with the development plan for an area, except where material considerations indicate otherwise. The development plan in this case comprises the Portsmouth Plan (2012) and the saved policies of the Portsmouth City Local Plan (2006).

7.2 The following policies are of particular relevance in this case:

### **The Portsmouth Plan (2012)**

- PCS17 - Transport
- PCS20 - Houses in Multiple Occupation
- PCS23 - Design & Conservation

### **Pre-Submission Portsmouth Local Plan 2020-2040**

The draft Pre-Submission Portsmouth Local Plan 2020-2040 was agreed at full council on 28 May 2024 and consultation on the Pre-Submission Local Plan closed in September 2024. The following policies are of relevance:

- PLP1: Design
- PLP20: Houses in Multiple Occupation
- PLP22: Space Standards
- PLP47: Movement and Transport
- PLP48: Access and Parking

7.3 Having regard to the NPPF paragraph 49 and the stage the emerging plan has reached in its preparation, limited weight is given to the above policies at this precise time.

### **7.4 Supplementary Planning Documents**

7.5 The following have been adopted by the Council as Supplementary Planning Documents and are relevant to the proposals;

- Updated Interim Nutrient Neutral Mitigation Strategy for New Dwellings (2022)
- Houses in Multiple Occupation (HMOs) (2019) - ('the HMO SPD')
- Solent Recreation Mitigation Strategy (2017)
- The Parking Standards and Transport Assessments Supplementary Planning Document (2014)

## 7.6 National Guidance

- National Planning Policy Framework (2024)
- National Planning Practice Guidance
- The Technical Housing Standards - nationally described space standards (2015)

## 8. OFFICER ASSESSMENT

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

- Principle of Development including compliance with policy
- Acceptability of the external alterations in regard to design
- Standard of accommodation
- Impacts on Amenity including parking
- Other material considerations

### 8.2 Principle

8.3 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 the housing mix of certain communities. Two of the key matters of principle 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.

8.4 In this case the application site is already in lawful use as an HMO and the application has been made to increase occupation by 2 occupants. As such the application is not considered to have any material impact on the number of HMOs in the area and thereby the balance of the local community. 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 assessment.

8.5 For reference, it can be noted however that the relevant 50m radius area is currently made up of 7 HMOs out of 53 properties, a percentage of 13.2%. This proposal has no effect on these proportions. 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.



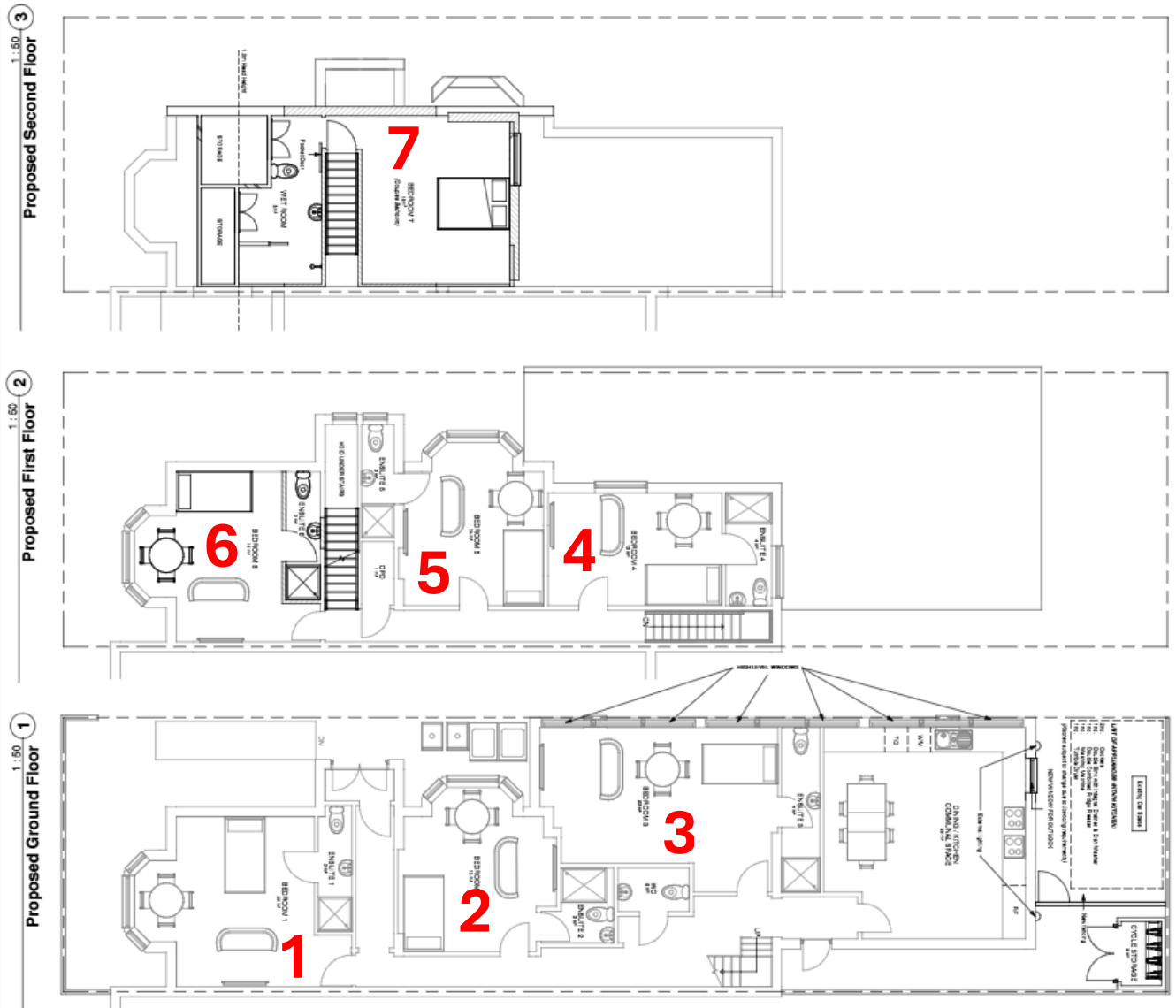
## 8.6 Design

- 8.7 Policy PCS23 of the Portsmouth Plan echoes the principles of good design set out within the National Planning Policy Framework and requires all new development be well designed and respect the character of the city. The following will be sought in new development, appropriate scale, density, layout, appearance and materials in relation to the particular context.
- 8.8 The proposed extensions to the roof would be reasonably prominent given the end of terrace location of the application site, but they are not unduly large. The application site has also been subject to several alterations to the fenestration and has been extended and is considered to be capable of having the proposed roof extensions without materially harming the character of the area. This is dependant on materials: the Applicant has substituted the formerly-proposed cladding to the hip-to-gable, to now be matching brick, and the dormer extension would be finished in matching hung tile. The decorative corbels just below present eaves height would be removed, which is regrettable but not a matter that could justify withholding permission. The two castellated features to the Fearon Road elevation would not require removal for the hip-to-gable extension. A condition is attached to require details of the making good of the removed corbels.
- 8.9 Overall, the proposed external alterations are considered to be acceptable, on balance.

8.10 Standard of accommodation

8.11 The roof extensions 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 (ground floor, single occupancy)	19.5m <sup>2</sup>	10m <sup>2</sup>
Bedroom 2 (ground floor, single occupancy)	15m <sup>2</sup>	10m <sup>2</sup>
Bedroom 3 (ground floor, single occupancy)	22.8m <sup>2</sup>	10m <sup>2</sup>
Bedroom 4 (first floor, single occupancy)	13.4m <sup>2</sup>	10m <sup>2</sup>
Bedroom 5 (first floor, single occupancy)	14.1m <sup>2</sup>	10m <sup>2</sup>
Bedroom 6 (first floor, single occupancy)	15.3m <sup>2</sup>	10m <sup>2</sup>
Bedroom 7 (second floor, double occupancy)	17.5m <sup>2</sup>	10m <sup>2</sup>
Combined Living Space	27.9m <sup>2</sup>	22.5m <sup>2</sup>
Ensuite for bedroom 1	2.8m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite for bedroom 2	3.1m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite for bedroom 3	4.3m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite for bedroom 4	3.5m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite for bedroom 5	2.75m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite for bedroom 6	3m <sup>2</sup>	2.74m <sup>2</sup>
Wet Room for bedroom 7	7.9m <sup>2</sup>	3.74m <sup>2</sup>
Shared WC (ground floor)	2.1m <sup>2</sup>	N/A additional



### Floor Plans

- 8.12 As is shown in the table above, the proposal results in an internal layout that meets the Council's adopted space standards, and provides apparent suitable layout and light, and is therefore considered to result in a satisfactory standard of living environment.
- 8.13 Externally, what was the last part of the original rear garden has been used for several years at least as an off-road parking bay. This is proposed for retention by the Applicant, in preference to the provision of a new garden/landscaped yard for the HMO occupiers
- 8.14 Amenity and Parking
- 8.15 The proposal would increase the occupancy of the existing HMO by 2 occupants. 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.
- 8.16 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. The application site has one parking space shown for retention. Consequently, the proposal remains in accordance with the Council's adopted guidance on parking provision and Policy PCS17 of the Local Plan.

- 8.17 The proposal has been amended from the originally submitted plans. Principally, the first floor rear extension has been removed at Officer request - it would have likely caused a harmful impact by means of overshadowing, loss of light, and an increased sense of dominance on the neighbouring property, no. 83. The external changes are now limited to the rear and side roof extensions, and as such it is not considered that there would be a harmful impact on neighbour amenity by means of overshadowing, loss of light or overlooking given the location of the dormer away from the eaves.
- 8.18 Other Material Considerations
- 8.19 A key and overriding consideration in this case is the necessity to recognise the fallback position available to the applicant; that is the position they could take for the increase in occupancy if this application is refused. The property's existing bedrooms are large and, at least two of them could accommodate the proposed two extra occupiers. In this case the addition of 2 occupants to the existing lawful HMO is not considered to amount to a material change in the use of the dwelling. Under s57 of the 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.
- 8.20 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 planning judgement to be assessed on the facts of the particular proposal. 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.
- 8.21 While every application must be considered on its own individual merits, these examples provide clear guidance on the correct interpretation of s55 of the TCPA and these appeals decisions are considered to be a material consideration in the determination of similar applications. Members may also note the previous decisions of Portsmouth's Planning Committee - contrary to Officer recommendation - determined similar changes in occupation amounted to a material change in use. This is 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, 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.
- 8.22 In the circumstances of the current application, 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 fallback position to lawfully carry out the change in occupation without needing planning permission. **NB:** This application is distinct from the above examples, as it requires the construction of roof extensions in order to enable the increase in occupancy and distribution and number of rooms that the Applicant has proposed. It is therefore considered in Officers' view that while the increase in occupancy does not require Planning Permission, the extensions do. As



these extensions are part of the planning application, conditions are attached with respect to these elements.

- 8.23 Notwithstanding the advice of Officers above, should it be considered necessary to assess the merits of the application with respect to increase in occupancy, 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 in the development against any benefits arising. Principally, for this HMO application, the benefits are the provision of housing through the provision of additional 2 bedspaces of occupation within the HMO. While this is a small contribution to the overall housing stock, the Council currently is unable to demonstrate a 'five year supply' of housing, with only a 4.97 year supply currently identified.
- 8.24 In this circumstance, the Council is directed that the policies which are most important to housing provision within the Local Plan are out of date provided none of the exceptions in NPPF Paragraph 11 footnote #7 apply, including impacts to habitats sites. The consequence of this is that decision makers 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 is considered to be insignificant and therefore falls short of significantly and demonstrably outweighing even the small benefit to the city's housing stock of the provision of bedspaces, should such assessment be considered necessary.
- 8.25 Impact on Special Protection Areas
- 8.26 It is acknowledged that there are ongoing issues around the nitrification of the Solent due to increased levels of runoff from residential development. The applicant's fallback position set out above allows the occupation of the site without further planning permission being required. As such it is considered that the proposal would not amount to development requiring planning permission and therefore would not have a Likely Significant Effect on the Solent Special Protection Areas or result in an increased level of nitrate discharge.
- 8.27 Other matters raised in representations
- 8.28 Biodiversity and Ecology concerns are not considered to be materially different from the existing C3 use. In any case, in terms of Biodiversity Net Gain the site is considered to have a 'de-minimis' exemption. This exemption applies to development that does not impact a priority habitat and impacts less than 25 square metres (e.g. 5m x 5m) of non-priority on-site habitat. Other legislative regimes cover any disturbances of bird nests or ecology concerns.
- 8.29 Comments regarding the HMO radius test and density should have been submitted during the public consultation for the draft local plan last summer. The 10% threshold remains as adopted guidance in the SPD.
- 8.30 Loss of property value is not a material planning consideration.
- 8.31 An objection point concerning drainage has been raised. It is not considered that a change of use from a Class C4 HMO to a Sui Generis HMO would result in a significant impact on the local sewer network, and this was confirmed with a dismissed Appeal Decision in 2024 for a proposed Sui Generis HMO at 61 St Chads Avenue (ref 23/00676/FUL) . The Planning Inspector noted that "*... the construction, operation and maintenance of an adopted sewerage system is the responsibility of the statutory sewerage undertaker, in this case, Southern Water, and the sewerage undertaker has a legal duty under S94 of the Water Industry Act 1991 to provide an effective system of sewers in its area. These sewers become public sewers to which the owners/occupiers*

*of premises, and the owners of private sewers, have a right to connect and thereby drain foul water regardless of any capacity issues".*

8.32 Issues of fire safety and other health and safety related matters would be controlled by the licensing regime and by Building Regulations.

## **9. CONCLUSION**

9.1 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 resulting from the extra occupancy of two further persons are not sufficiently significant, as a matter of fact and degree, to result in a material change in the use of this property. As such planning permission is not required for the increase in occupancy, but the extensions do require permission and are considered on their own merits to be acceptable subject to the submission of final details of the making good of the corbelled area below the gable end.

## **RECOMMENDATION                      Conditional Permission**

### **Time Limit:**

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

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

### **Approved Plans:**

- 2) Unless otherwise agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Location Plan PP-13063365v1; Proposed Floor Plans PG.9056.24.02 Rev F; Proposed Elevations 9056.24.03 Rev F; Proposed Roof Plan PG9056.24.08 Rev A

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

### **Corbel details:**

- 3) Prior to the construction of the hip-to gable roof extension hereby permitted, details of the making good of the corbelled area (including the horizontal support line) below the gable end shall be submitted to and approved in writing by the Local Planning Authority. The area shall be made good in accordance with the approved plans prior to completion of this extension.

Reason: To ensure that the proposal results in a satisfactory visual appearance in accordance with Policy PCS23 of the Portsmouth Plan.

# Agenda Item 7

25/00026/FUL

WARD: BAFFINS

64 LANGSTONE ROAD, PORTSMOUTH, PO3 6BX

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

**[25/00026/FUL | CHANGE OF USE FROM DWELLING HOUSE \(CLASS C3\) TO PURPOSES FALLING WITHIN HOUSE OF MULTIPLE OCCUPATION \(CLASS C4\) OR A DWELLINGHOUSE \(CLASS C3\) | 64 LANGSTONE ROAD PORTSMOUTH PO3 6BX](#)**

**Application Submitted By:**

Mr. Paul Gosling, PMG Building Design & Consultancy Ltd

**On behalf of:**

Mr. D Horn

**RDD:** 13.01.2025

**LDD:** 03.04.2025

## 1. SUMMARY OF MAIN ISSUES

- 1.1 The application is brought to Committee because of a call-in from Councillors Kadir and Sanders, and by means of the number of objections. The reasons for the Councillors' call-in are: in the interest of transparency, and for the potential residential amenity impact on local residents.
- 1.2 The main issues for consideration in the determination of the application are considered to be as follows:
  - The principle of development;
  - The standard of accommodation;
  - Impact on neighbouring living conditions;
  - Parking;
  - Waste;
  - Impact upon the Solent Protection Areas, and;
  - Any other matters raised.

## 2. SITE AND SURROUNDINGS

- 2.1 The application dwelling is a two storey (with roof extension) residential terraced house. The property benefits to full access rights to an alleyway to the rear of the dwelling (as confirmed by the owner).
- 2.2 The site is approximately 700m from Tangier Road Local Centre, which has a limited range of shops. There are no local parking restrictions, although there are several disabled allocated spaces within 100m of the property. Langstone Road itself has speed bumps and connects Eastern Road with the junction of Milton and St Mary's Roads, both of which have bus services. Fratton train station is 1.7km away. Tamworth Park is in close proximity, and nearby are Milton Common, Kingston Park, Kingston Cemetery and Baffins Pond. St Marys Health campus is close to the southwest.

## 3. PROPOSALS

- 3.1 The proposal is 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).
- 3.2 The proposed internal accommodation, with room sizes set out in Table 1 later in this report, comprises the following:
- Ground Floor - one bedroom (single occupancy); communal combined amenity area; shared shower room with WC, handbasin. Additional living room. Access to garden area.
  - First Floor - Three bedrooms (single occupancy); shared bathroom with bath and WC, hand basin
  - Second Floor - Double bedroom, ensuite with bath and WC, hand basin. Cupboard area.
- 3.3 The Applicant has stated that no external works would be required to facilitate the change of use: the single storey rear extension was recently constructed under the Prior Approval set out below. The roof extension has also been carried out recently under Permitted Development rights, otherwise, the plans show no changes internally.
- 3.4 A bike store is proposed in the rear garden, and an area for waste recycling/disposal bins is shown on the property forecourt.

#### 4. PLANNING HISTORY

- 4.1 **App No** 24/00015/GPDC - Construction of single storey rear extension  
**Decision** - No Prior Approval required.  
**Date** 23.05.2024

#### 5. CONSULTATIONS

##### 5.1 Highways Team

- 5.2 No objection. Langstone Road is a residential road with bus stops and local amenities. The proposed application seeks to convert an existing 5 bed residential (c3) to a 5 bed C3/C4 use. It is not considered that size of development would lead to a material impact to the function of the highway or result in any unacceptable safety impact. Given the level of bedrooms is unchanged, it is not considered that any material impact would arise in terms of parking pressure. The proposal does indicate secure cycle storage, which should be secured by condition.

##### 5.3 Private Sector Housing

- 5.4 The applicant is informed of the presence of inner rooms (Bedrooms 1 to 5). In addition, the measurements for the shower rooms in Ground floor and First floor have not been provided. As per reference of the Space and Amenity Standards, this should be of a minimum of 2.74 m<sup>2</sup>. Furthermore, it has been noted that the kitchen / dining space is shown on the plan as measuring 31 m<sup>2</sup> and therefore does not meet the minimum space requirements of 34 m<sup>2</sup> as detailed within the Council's local space and amenity standards. This property would require to be licenced under Part 2, Housing Act.

#### 6. REPRESENTATIONS

- 6.1 Letters to adjoining properties were sent on 10.02.2025. A Site Notice was displayed outside the site originally on 11<sup>th</sup> February. A neighbour informed the Local Planning Authority (LPA) that this was taken down within 2 days, and thus a second site notice

was displayed on 20<sup>th</sup> February. Again, the same neighbour informed the LPA that the site notice was removed. On the 26<sup>th</sup> February, three site notices were displayed along the length of the road, and the Officer validated that all three were still in place by mid-day on Monday 3<sup>rd</sup> March (the final day of publicity).

- 6.2 Forty-nine representations have been received in respect of the proposals. All are in objection to the scheme, including an objection each from Councillor Sanders and Councillor Kadir. Twenty-three of the forty-nine letters were provided without the postal address of the objector. Ten of the forty-nine letters were provided with names, sent from the same email account.
- 6.3 The following objections were made to the scheme;
- Parking on existing road is poor/difficult, and a HMO would increase parking pressure through additional occupancy. This makes it difficult for emergency services and local health workers to access residents.
  - Cycle parking will not be utilised
  - No provision for parking for oversized vehicles such as work vans. Lack of parking enforcement from the Council. Local hospital workers using Langstone Road to park. Nos 60 and 49 owning 11 vehicles between them, while other houses only have 1,2 or 3 cars above
  - Drainage concerns, and the lack of capacity of the local sewerage and drainage network to cope with 6 additional residents. Previous drainage concerns and unblocking.
  - Construction problems such as diggers and skips and other building materials being left on the highway. Burning of waste on site, leading to thick smoke. Conduct of the builders, such as leaving nails/sharp objects in the street.
  - Asbestos concerns due to a garage at rear of property being demolished
  - Property has been vacant for 3 years and the existing use is incorrect. C3 dwellings incompatible to be compared with C4 HMO use as nature of occupation is different.
  - Overcrowding of Baffins Ward, wider city, overtly dense development.
  - Proximity to Fratton Park, and parking pressures associated with matchdays
  - Transient tenants due to the loss of a family-oriented area. Social cohesion, HMO would impact community social fabric
  - Noise and general impact on residential amenity, for example, litter, bin overflow, 'clean living'.
  - Impact on disabled parking on Langstone Road, and residents having to park further from their properties. Specifically, 4 disabled parking spaces within 150m of dwelling.
  - Precedent of an approval for HMO use in an area with low HMO use.
  - Possible conflict with PCS20 and the HMO SPD, i.e. other properties close by that exhibit the traits of an HMO.
  - Existing HMOs on street (no.49) and issues therewithin.
  - Impact on health and well-being of neighbours and occupiers
  - Fire safety of the HMO
  - Speed bumps on the road incompatible with the development
  - Insufficient facilities to cope with the waste generated
  - Environmental concerns, due to higher energy consumption of HMOs which would exacerbate local and global environmental issues
  - Deceit of the applicant by starting works prior to permission
  - Strain on local services such as dentists and GPs
  - Character and appearance of local area
  - Site notice being taken down by developer, lack of publicity of application
  - Dwelling is being advertised as a 6 bedroom property.

- 6.4 The following points were also made which are not considered to be material considerations in the determination of the application;
- Impact to house prices, difficulty in future sale of houses near the HMO
  - Damage to neighbouring properties and outbuildings
  - Party Wall Act concerns

## 7. POLICY

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications must be determined in accordance with the development plan for an area, except where material considerations indicate otherwise. The development plan in this case comprises the Portsmouth Plan (2012) and the saved policies of the Portsmouth City Local Plan (2006)

7.2 The following policies are of particular relevance in this case:

### **The Portsmouth Plan (2012)**

- PCS23 - Design & Conservation
- PCS20 - Houses in Multiple Occupation
- PCS17 - Transport

### **Pre-Submission Portsmouth Local Plan 2020-2040**

The Pre-Submission Portsmouth Local Plan 2020-2040 was endorsed at full council on 28 May 2024 and consultation on the Pre-Submission Local Plan closed in September 2024. Policies relevant to this application include:

- PLP1: Design
- PLP20: Houses in Multiple Occupation
- PLP22: Space Standards
- PLP47: Movement and Transport
- PLP48: Access and Parking

7.3 Having regard to the NPPF paragraph 49 and the stage the emerging plan has reached in its preparation, limited weight is given to the above policies at this precise time.

### **7.4 Supplementary Planning Documents and Guidance**

7.5 The following have been adopted by the Council as Supplementary Planning Documents and are relevant to the proposals;

- Updated Interim Nutrient Neutral Mitigation Strategy for New Dwellings (2022)
- Houses in Multiple Occupation (HMOs) (2019) - ('the HMO SPD')
- Solent Recreation Mitigation Strategy (2017)
- The Parking Standards and Transport Assessments Supplementary Planning Document (2014)

### **7.6 National Guidance**

- National Planning Policy Framework (2024)
- National Planning Practice Guidance
- The Technical Housing Standards - Nationally Described Space Standards (2015)

## 8. OFFICER ASSESSMENT

8.1 The main issues for consideration in the determination of the applications include the following:

- The principle of development;
- The standard of accommodation;
- Impact on neighbouring living conditions;
- Parking;
- Waste;
- Impact upon the Solent Protection Areas; and
- Any other matters raised.

## 8.2 Principle of Development

8.3 Permission is sought for the flexible use of the property for purposes falling within Class C4 (house in multiple occupation) (HMO) or Class C3 (dwellinghouse). The property currently has a lawful use as a self-contained dwelling (Class C3). For reference, a Class C4 HMO is defined as 'a property occupied by between three and six unrelated people who share basic amenities such as a kitchen or bathroom'.

8.4 Policy PCS20 of the adopted 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 36 properties within a 50-metre radius of the application site, there is 1 confirmed HMO, as shown in Figure 1 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.



Figure 1: Residential properties and HMOs within the 50m radius of the application site.

- 8.6 Following further investigation, no additional HMOs have been uncovered by the Case Officer. One further property, no. 49 Langstone Road, was referenced by an objector as being a possible HMO. Council records, including planning records, licensing data and council tax data shows the property as being in a C3 use. The application proposal would bring the percentage of HMOs within the area up to **5.56%**. This would be lower than the 10% threshold above which an area is considered to be imbalanced and in conflict with Policies PCS20.
- 8.7 Having regard to the above, the proposal would comply with the aims and objectives of Policy PCS20 of the Portsmouth Plan (2012).
- 8.8 **Standard of accommodation**
- 8.9 The application seeks, in addition to a C3 use, the opportunity to use the property as a C4 HMO which would allow occupation by up to six individuals. The Applicant has referred to 6 occupiers in the total of 5 bedrooms in the submission, showing Bedroom 4 in the roof space being double-occupancy.
- 8.10 The HMO SPD sets out various expected room sizes and permutations, and also refers across to the Public Sector Housing 'Standards for Houses in Multiple Occupation' document dated September 2018.
- 8.11 The submitted plans have been checked by officers and, notwithstanding the annotations on the plans, the sizes stated below are those measured and assessed by the Planning Officer. For the proposed C4 HMO use, the room sizes have been assessed against the space standards for a 6 person HMO as shown in Table 1 below. Figure 2 below shows the submitted floor plans.

Room	Area Provided:	Size provided for in Guidance:
Bedroom 1	13.35m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 2	9.31m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 3	8.09m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 4 (double)	14.33m <sup>2</sup>	11m <sup>2</sup>
Bedroom 5	13.35m <sup>2</sup>	6.51m <sup>2</sup>
Combined Living Space	31.82m <sup>2</sup> (excluding the rear corridor space)	34m <sup>2</sup>
Additional Living Space	8.80m <sup>2</sup>	Combine with communal space to achieve at least 34m <sup>2</sup>
Shower room (ground floor)	2.83m <sup>2</sup>	2.74m <sup>2</sup>
Bathroom (first floor)	3.10m <sup>2</sup>	3.74m <sup>2</sup>
Ensuite (bed 4)	6.04m <sup>2</sup>	3.74m <sup>2</sup>
Storage (cupboard, second floor)	4.36m <sup>2</sup>	Not required

Table 1: Schedule of room sizes



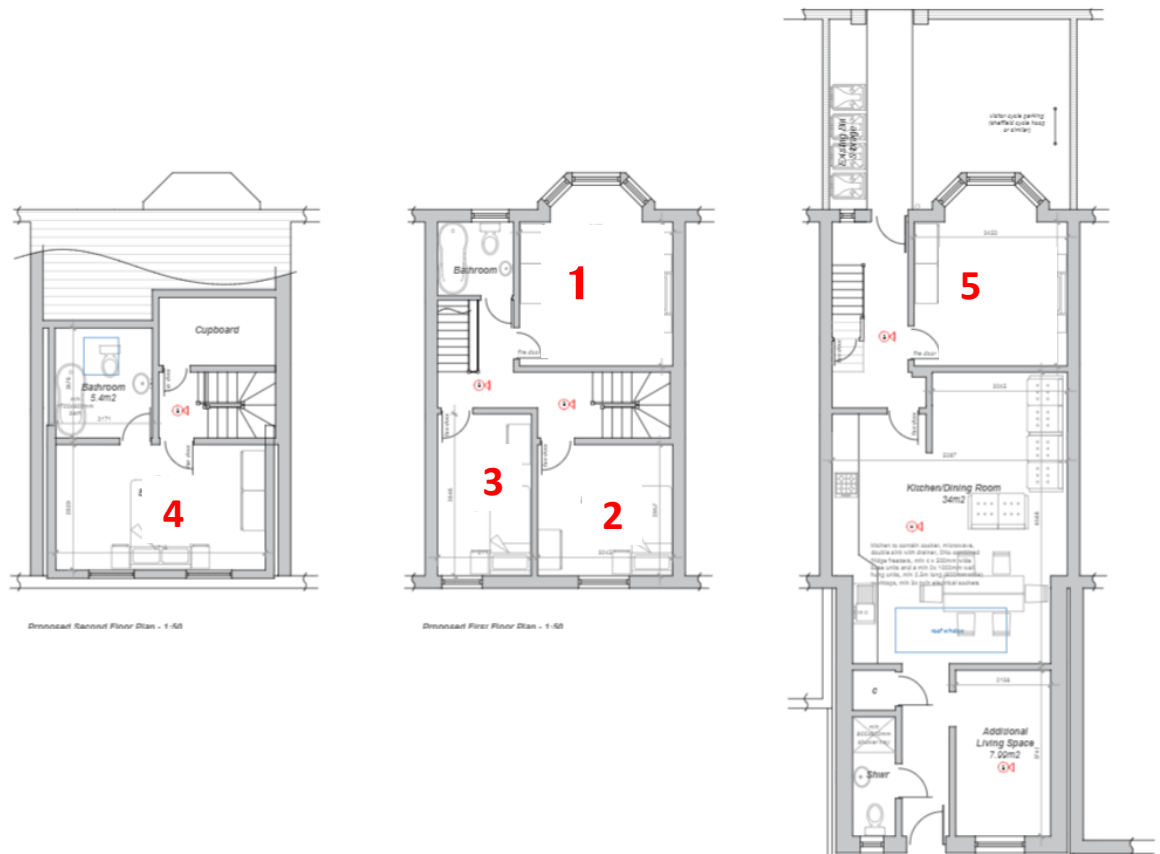


Figure 2: Submitted floor plans.

- 8.12 All of the rooms bar the first floor shared bathroom accord with the standards as set out within the HMO SPD, and all habitable rooms are of suitable configuration and would have good access to natural light and outlook. With regards to bath/shower rooms, Bedroom 4 has its own ensuite, leaving four persons sharing the first floor bathroom and the ground floor shower room. The required standard for four persons is only one bathroom. So, although the first floor bathroom is not to the required size, it is more than compensated for by the presence of the additional shower room. As such, it is considered the proposals accord with the SPD.
- 8.13 **Impact on neighbouring living conditions**
- 8.14 As well as the matter of mixed and balanced communities discussed above, further details concerning neighbouring amenity are contained within PCS20 and the SPD. The SPD seeks to ensure that the amenity and standard of living environment of neighbours and local occupiers is protected. This is explained within its Appendix 6, 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.
- 8.15 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 harmful.
- 8.16 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 household, 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.

- 8.17 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, any impacts of this on neighbours' living conditions would be nominal and unlikely to be regularly perceived by adjacent occupiers. It is not considered that the impact of one further HMO (bringing the total to 5.56% within a 50m radius) would not have any demonstrable adverse impact on wider amenity.
- 8.18 Having regard to these material considerations, it is considered there would not be a significant impact on residential amenity from the proposal, and so the application would comply with PCS20 and the SPD.
- 8.19 **Highways/Parking**
- 8.20 The City Council's Parking Standards SPD sets the level of off-road parking facilities for new developments within the city and places an expectation of two off-road spaces for Class C4 HMOs with four or more bedrooms. The expected level of parking demand for a Class C3 dwellinghouse with four or more bedrooms (as existing) is also two off-road spaces.
- 8.21 The C4 element of the proposal compared to the existing property has the same requirement for parking spaces, to which neither the Highways Officer nor Planning Officer raises an objection. As the level of occupation associated with a HMO is not considered to be significantly greater than the occupation of the property as a Class C3 dwellinghouse, it is considered that an objection on either highway safety grounds, or car parking standards, could not be sustained on appeal. It should be noted that the property could be occupied by a large family and/or with adult children, with total car ownership being two or more vehicles.
- 8.22 The Council's Adopted Parking Standards set out an expectation for C4 HMOs of this size to provide space for the storage of 4 bicycles. The application proposes a bike store be provided in the rear garden, this will be secured by condition.
- 8.23 **Waste**
- 8.24 The storage of refuse and recyclable materials would remain similar to the existing - bins on the front forecourt - and an objection on waste grounds would not form a sustainable reason for refusal.
- 8.25 **Impact on Special Protection Areas**
- 8.26 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 or C4 use, and 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.
- 8.27 **Other matters raised in representations**
- 8.28 An objection has raised that the property was being advertised on a property website for 6 bedrooms. The Applicant has confirmed this was an error, the advert has been corrected to five bedrooms, and that the intentions for occupation are as per the submitted planning application. Irrespective of the advert, the application has to be determined on what is stated therein, being six persons in five bedrooms.
- 8.29 Issues during the construction of the HMO, Fire Safety, ongoing noise complaints and the character of potential tenants are an issue for Environmental Health or Private Sector

Housing to consider. This includes the reference from some objections to the potential of asbestos on site, and the burning of waste.

- 8.30 A resident informed the LPA of the removal (twice) of the Site Notice. The Development Management Procedure Order requires the LPA to replace a missing Notice during the 21 day publicity period. As set out above in the 'Representations' section, the LPA has complied with the Order by replacing the missing Notice (twice).
- 8.31 Biodiversity and Ecology concerns are not considered to be materially different from the existing C3 use. In any case, in terms of Biodiversity Net Gain the site is considered to have a 'de-minimis' exemption. This exemption applies to development that does not impact a priority habitat and impacts less than 25 square metres (e.g. 5m x 5m) of non-priority on-site habitat. Other legislative regimes cover any disturbances of bird nests or ecology concerns.
- 8.32 An objection point concerning drainage has been raised. It is not considered that a change of use from a Class C3 Dwellinghouse to an HMO would result in a significant impact on the local sewer network, and this was confirmed with a dismissed Appeal Decision in 2024 for a proposed Sui Generis HMO at 61 St Chads Avenue (ref 23/00676/FUL) . The Planning Inspector noted that "... *the construction, operation and maintenance of an adopted sewerage system is the responsibility of the statutory sewerage undertaker, in this case, Southern Water, and the sewerage undertaker has a legal duty under S94 of the Water Industry Act 1991 to provide an effective system of sewers in its area. These sewers become public sewers to which the owners/occupiers of premises, and the owners of private sewers, have a right to connect and thereby drain foul water regardless of any capacity issues*".
- 8.33 Objections have been raised on the retrospective nature of the application, with construction on site beginning before the determination of this application. The two extensions (roof, and ground floor rear extension) have been recently completed and works are in their final stages, such as painting, when the Planning Officer site visit was conducted. All works that have been completed fall within the permitted development rights pertaining to the dwelling (the roof extension), and the Prior Approval (ground floor rear extension).
- 8.34 **Human Rights**
- 8.35 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.
- 8.36 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.

## 9.0 CONCLUSIONS AND PLANNING BALANCE

- 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), the HMO SPD, and the objectives of the National Planning Policy Framework (NPPF) (2024).

## RECOMMENDATION

Conditional Permission

### Conditions

#### 1. Time Limit

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.

#### 2. Approved Plans

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:

- 2025.005 REV D, OS Licence No 100047474 (Location and Block Plan)

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

#### 3. Cycle storage

Prior to first occupation of the property as a House in Multiple Occupation within Use Class C4, secure and weatherproof bicycle storage facilities for four 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 Policy PCS17 of the Portsmouth Plan (2012).

### Informative:

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

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

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

Phone Number: 023 9284 1659

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

Planning (General Permitted Development) (England) Order 2015 (as amended) ceases and the use of the property at that time becomes the singular lawful use.

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

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

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# Agenda Item 8

24/01194/FUL

WARD: COPNOR

231 Laburnum Grove Portsmouth PO2 0HE

**CHANGE OF USE FROM A DWELLINGHOUSE (CLASS C3) TO A 7-BED/7-PERSON HOUSE IN MULTIPLE OCCUPATION**

[24/01194/FUL | CHANGE OF USE FROM A DWELLINGHOUSE \(CLASS C3\) TO A 7-BED/7-PERSON HOUSE IN MULTIPLE OCCUPATION | 231 LABURNUM GROVE PORTSMOUTH PO2 0HE](#)

**Application Submitted By:**

Mr O Farr  
Applecore PDM

**On behalf of:**

Hawkins

**RDD:** 01.10.2024

**LDD:** 26.11.2024

**1. SUMMARY OF MAIN ISSUES**

1.1 The application is brought to committee because 6 or more objections have been received.

1.2 The proposal is for the change of use from a C3 dwellinghouse to a 7 bed, 7 person house in multiple occupation (sui generis).

**2. SITE AND SURROUNDINGS**

2.1 The application site comprises of a two-storey mid-terraced dwelling located to the northern side of Laburnum Grove as shown in **Figure 1** below. The property is set back from the highway by a small front garden and a fair-sized rear garden.

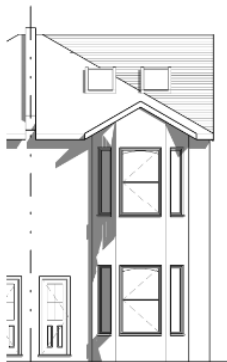
2.2 The surrounding area is predominantly residential in character with similar terraced properties. The application site falls within a residential area characterised by rows of two-storey terraced properties.



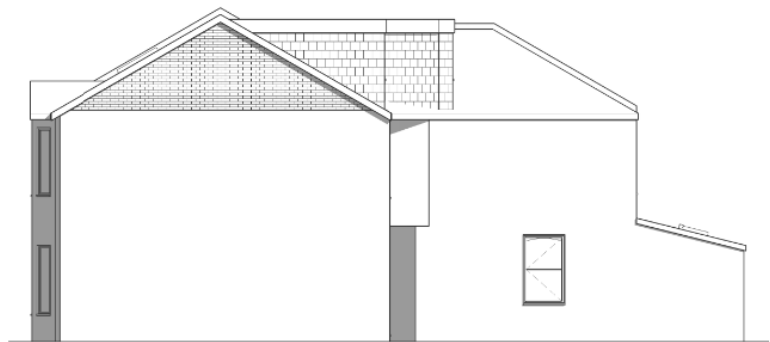
**Figure 1** Location plan.

**3. PROPOSALS**

3.1 The proposal is for the change of use from a C3 dwellinghouse to a 7 bed, 7 person House in Multiple Occupation. These works would be facilitated by internal reconfiguration of rooms and a hip-to-gable extension, the addition of a rear dormer and front rooflights, undertaken with the benefit of permitted development rights.



**4** Proposed Front Copy 1  
1:100



**5** Proposed Side Copy 1  
1:100





6 **Proposed Rear Copy 1**  
1 : 100



7 **Section 1 Copy 1**  
1 : 100

**Figure 2** Proposed Elevations and Sections showing permitted development dormer and rooflights

#### 4. PLANNING HISTORY

##### 4.1 24/00515/FUL

Change of use from dwellinghouse (Class C3) to 7 person/7 bedroom house in multiple occupation.

**Recommended for refusal by planning committee** due to communal space being less than 22.5m<sup>2</sup>

##### 4.2 21/01083/HOU

Construction of hip to gable roof extension and 'L shaped dormer to rear/side roof slopes  
**Withdrawn (would have been recommended for refusal)**  
26.11.2021

#### 5. CONSULTATIONS

##### 5.1 Highways Team

5.2 Laburnum Grove is a residential road with parking accommodated through unrestricted on street parking, amenities are available in proximity along Copnor Road and London Road. I am satisfied that the proposal would not have a material impact upon the function of local highway network. Given the constraints of the site, no off-street parking can be accommodated within the curtilage of the property. There is a potential for increased instances of residents driving around the area hunting for a parking space, however this an issue of residential amenity for you to consider in your determination of the application. The proposal does indicate secure cycle storage, this should be provided prior to occupation of the new residential units

##### 5.3 Private Sector Housing

5.4 Based on the layout and sizes provided there are no adverse comments to be made by Private Sector Housing. This property would require to be licenced under Part 2, Housing Act.

#### 6. REPRESENTATIONS

6.1 Letters to adjoining properties were sent on 08.10.2024. A site notice was erected outside the site on 09.10.2024.

- 6.2 12 representations have been received in respect of the proposals. All 12 object to the scheme, including one from Cllr Benedict Swann. 2 of these letters were provided without the postal address of the objector. A further 2 of these letters were received from the same postal address.
- 6.3 The following objections were made to the scheme;
- Number of HMOs in the area including accuracy of HMO data held by the council;
  - Impact on parking - highway safety, air quality, emergency services access;
  - Impact of local character and heritage;
  - Impact from noise of the development;
  - Impact of local services, including doctors, dentists; the sewer network;
  - Increase instances of anti-social behaviour and crime;
  - Increase from waste at the site;
  - Loss of family housing within the city;
  - Impact on the Solent Special Protection Area;
- 6.4 The following points were also made which are not considered to be material considerations in the determination of the application;
- Complaints about methodology for determining number of properties in the 50m radius
  - Request for a change in Policy from 10% to 5% or otherwise lower than existing for the threshold for HMO Applications
  - Fire safety concerns

## 7. POLICY

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications must be determined in accordance with the development plan for an area, except where material considerations indicate otherwise. The development plan in this case comprises the Portsmouth Plan (2012) and the saved policies of the Portsmouth City Local Plan (2006).
- 7.2 The following policies are of particular relevance in this case:

### **The Portsmouth Plan (2012)**

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

### **Pre-Submission Portsmouth Local Plan 2020-2040**

The draft Pre-Submission Portsmouth Local Plan 2020-2040 was approved for Regulation 19 consultation and submission for Examination at the meeting of Full Council on 28 May 2024 and consultation on the Pre-Submission Local Plan closed in September 2024.

- Core Policy PLP1: Design
- Strategic Policy PLP20: Houses in Multiple Occupation
- Strategic Policy PLP47: Movement and Transport
- Development Management Policy PLP48: Access and Parking

- 7.3 Having regard to the NPPF paragraph 49 and the stage the emerging plan has reached in its preparation, limited weight is given to the above policies at this precise time.

#### 7.4 **Supplementary Planning Documents and Guidance**

7.5 The following have been adopted by the Council as Supplementary Planning Documents and are relevant to the proposals;

- Updated Interim Nutrient Neutral Mitigation Strategy for New Dwellings (2022)
- Houses in Multiple Occupation (HMOs) (2019) - ('the HMO SPD')
- Solent Recreation Mitigation Strategy (2017)
- The Parking Standards and Transport Assessments Supplementary Planning Document (2014)

#### 7.6 **National Guidance**

- National Planning Policy Framework (2024)
- National Planning Practice Guidance
- The Technical Housing Standards - nationally described space standards (2015)

### 8. **OFFICER ASSESSMENT**

8.1 The main issues for consideration in the determination of the applications include 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**

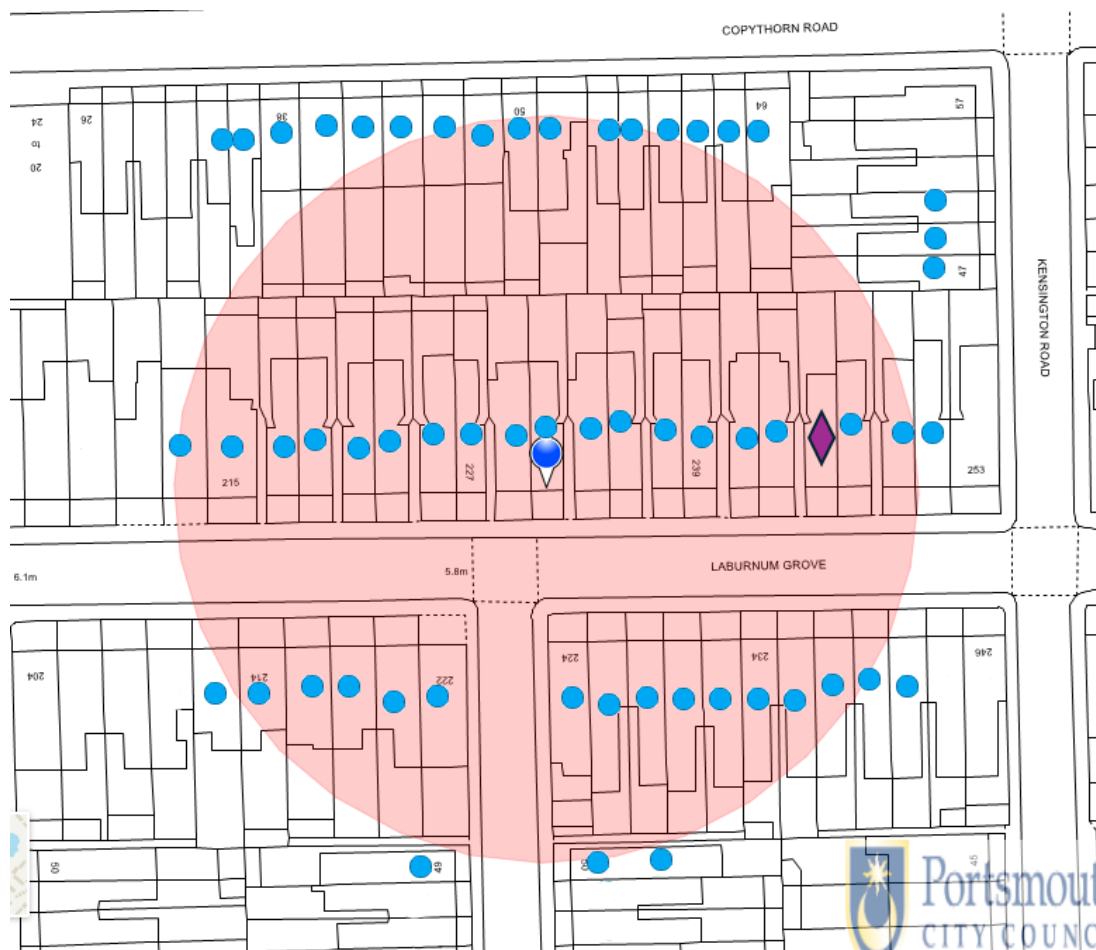
#### 8.3 Five-year Housing Land supply.

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

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

8.5 Currently, the Council can demonstrate 4.97 years supply of housing land. The starting point for determination of this application is therefore the fact that the authority cannot demonstrate a five-year supply of housing. This development would provide greater occupation of the building, so make a small, additional contribution towards the City's housing needs, at a sustainable location in the city, with good public transport, retail and services, employment, leisure, health facilities, etc. These factors weigh in favour of the proposed development. The further, specific impacts of the proposal must still be considered as to whether the development is appropriate in detail, as set out below.

- 8.6 HMO Policy
- 8.7 Permission is sought for the use of the property as a Sui Generis HMO for 7 persons. The property is currently considered to have a lawful use as a self-contained dwelling (Class C3).
- 8.8 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.
- 8.9 Based on information held by the City Council, of the 60 properties within a 50-metre radius of the application site, one property has been identified as an HMO in lawful use. Therefore, the existing number of HMOs equates to 1.7% of the properties within the search area. The addition of the application property increases the figure to 3.3%. This includes no.245 Laburnum Grove which was granted planning permission on 17.01.2025, and therefore with this inclusion of this property, as per the methodology of the HMO SPD the density figure is 3.3%. The density falls below the 10% threshold limit above which an area is considered to be imbalanced. Comments have been raised regarding the high density of HMOs along Laburnum Grove and the accuracy of data held by the council; however, officers have checked planning history and licensing records. No conflict with the HMO SPD has been found.
- 8.10 In addition to the HMO plan as shown below, a full check of planning history of properties within the 50m radius has also been undertaken, tallying with the data in the HMO map.

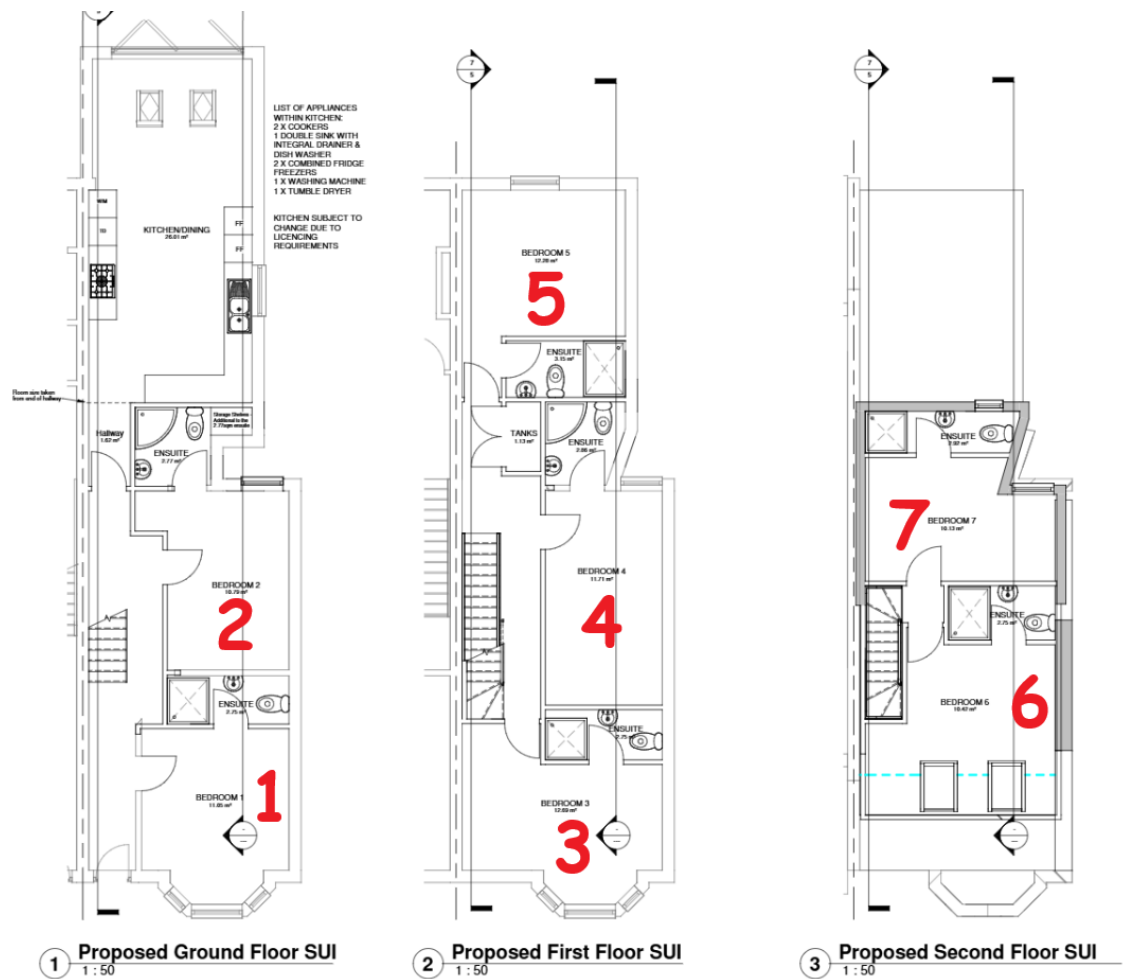


**Figure 3** HMO map

- 8.11 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.
- 8.12 Having regard to the above, the proposal would comply with the aims and objectives of Policies PCS19 and PCS20 of the Portsmouth Plan (2012).
- 8.13 Standard of accommodation
- 8.14 The application seeks Sui Generis HMO use for 7 persons and proposes the following room sizes as measured by the planning officer, as shown in Table 1 below.

Room	Area Provided	Required Standard
Bedroom 1 ground floor (Single use)	11m <sup>2</sup>	10.00m <sup>2</sup>
Bedroom 2 ground floor (Single use)	10.75m <sup>2</sup>	10.00m <sup>2</sup>
Bedroom 3 first floor (Single use)	12.7m <sup>2</sup>	10.00m <sup>2</sup>
Bedroom 4 first floor (Single use)	11.7m <sup>2</sup>	10.00m <sup>2</sup>
Bedroom 5 first floor (Single use)	12.3m <sup>2</sup>	10.00m <sup>2</sup>
Bedroom 6 second floor (Single use)	10.4m <sup>2</sup> (taken up to 1.5m head height line)	10.00m <sup>2</sup>
Bedroom 7 second floor (Single use)	10.1m <sup>2</sup>	10.00m <sup>2</sup>
Communal Kitchen/Dining area (ground floor)	26.3m <sup>2</sup> (taken from point demarked by applicant to exclude corridor)	22.5m <sup>2</sup> (because all bedrooms exceed 10m <sup>2</sup> )
Ensuite bathroom for bedroom 1	2.76m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom for bedroom 2	2.75m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom for bedroom 3	3.13m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom for bedroom 4	2.8m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom for bedroom 5	3.1m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom for bedroom 6	2.79m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom for bedroom 7	2.93m <sup>2</sup>	2.74m <sup>2</sup>
Tanks Room (first floor)	1.1m <sup>2</sup>	N/A additional

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



**Figure 4 Floor Plans**

- 8.15 As is shown in the table above, the proposal results in an internal layout that meets the Council's adopted space standards in accordance with your HMO SPD. This states at para 2.6, 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 22.5m<sup>2</sup>) for combined living accommodation in circumstances where all bedrooms are at least 10m<sup>2</sup> and the accommodation is otherwise acceptable as communal 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. The submitted proposed floor plans show sufficient space within the communal kitchen/dining area to accommodate the proposed communal dining/lounge space.
- 8.16 All habitable rooms have good access to natural light with a full length window added to bedroom 2 on the ground floor for additional light and outlook; in addition, a rear garden of some 35 sqm also provides external amenity space for the residents. Additionally, the communal area has patio doors, roof lights, and a side facing window which ensure adequate provision of natural light to this shared area.
- 8.17 All 7 bedrooms would have ensuite facilities, the accommodation therefore would provide a suitable overall arrangement of sanitary facilities.
- 8.18 Impact on neighbouring living conditions
- 8.19 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 of the property by up to 7 unrelated persons as an HMO would be unlikely to be

significantly different from the occupation of the occupation as a dwellinghouse in Class C3.

- 8.20 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 additional HMO would not be significantly harmful.
- 8.21 All alterations to facilitate additional living accommodation are to be undertaken using permitted development rights, which the property benefits from. Any objections regarding overlooking or loss of light from the dormer window would not be material planning considerations in the determination of this application as these works can be carried out without the need for planning permission.
- 8.22 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.
- 8.23 Highways/Parking
- 8.24 The City Council's Parking Standards SPD sets the level of off-road parking facilities for new developments within the city and places a requirement of 2 off-road spaces for Sui Generis HMOs with four or more bedrooms. It should be noted that the expected level of parking demand for a Class C3 dwellinghouse with three bedrooms is 1.5 off-road spaces. The proposal has no off-street parking, which is no change from the current use.
- 8.25 As explained above, neither the Highways Officer nor Planning Officer highlights an issue with the scheme on the grounds of a lack of off-street parking. As the SPD requirement for parking is not very different for the proposal than a similarly sized Class C3 dwellinghouse or HMO, it is considered that refusal on a lack of parking is not reasonable or defensible. There is no objection on either highway safety grounds and therefore refusal could not be sustained on appeal. It should be noted that the property could be occupied by a large family and/or with adult children, each potentially owning a separate vehicle, or even more than 1 vehicle each. In addition, it is considered that the site is within an area of good accessibility and located within an acceptable walking distance of the various amenities and services, and bus routes.
- 8.26 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 garden where a proposed secure cycle storage is shown to be located and there is side access to the rear of the property. The requirement for cycle storage is recommended to be secured by condition.
- 8.27 Waste
- 8.28 The storage of refuse and recyclable materials would remain unchanged, to be accommodated in the suitable front forecourt area. An objection on waste grounds would not form a sustainable reason for refusal and it is not considered necessary to require details of formalised waste storage.
- 8.29 Other matters raised in objections
- 8.30 Comments regarding the HMO radius test and density need to be dealt with via the local plan process or during consultation on any proposals to amend the SPD. The 10% threshold and radius test remains as adopted guidance in the SPD. Fire safety would be within the control of the licensing and building control regimes.
- 8.31 Impact on Special Protection Areas
- 8.32 As there is a measurable increase in occupancy from 2.4 persons (for a C3 dwelling) to 7 persons, mitigation for increased Nitrate and Phosphate Output into the Solent and Recreational Disturbance to the SPA is required. This can be secured through a s111 agreement.
- 8.33 **Human Rights**

- 8.34 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.
- 8.35 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.

## **9.0 CONCLUSIONS AND PLANNING BALANCE**

- 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) (2024).

### **RECOMMENDATION**

Conditional Permission

**RECOMMENDATION I** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to satisfactory agreement of an internal local authority approval mechanism (an equivalent legal agreement) to secure:

- (a) Satisfactory completion of a Legal Agreement necessary to secure the mitigation of the impact of the proposed residential development on Solent Special Protection Areas (recreational disturbance and nitrates) by securing the payment of a financial contribution. and conditions (below)

**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 an internal local authority approval mechanism (an equivalent legal agreement) has not been satisfactorily agreed within six months of the date of this resolution.

### **Conditions**

#### **1. Time Limit**

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.

#### **2. Approved Plans**



Unless otherwise agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawing - Drawing numbers: Location Plan TQRQM24110101712242; Block Plan TQRQM2411010404566; Proposed Plans PG.9041.24.5 Rev B

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

### **3. Cycle Storage**

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.

### **4. Waste Storage:**

Prior to the first occupation of the property as a House in Multiple Occupation; refuse and recyclable materials storage facilities shall be provided at the site and shall thereafter be retained for the continued use by the occupants.

Reason: To ensure that adequate provision is made for the storage of refuse and recyclable materials in accordance with policy PCS15 and PCS23 of the Portsmouth Plan.

### **5. Water Efficiency:**

The proposal hereby permitted shall not (unless otherwise agreed in writing with the LPA) be occupied until written documentary evidence has been submitted to and approved in writing by the Local Planning Authority demonstrating that the development has achieved a maximum water use of 110 litres per person per day as defined in paragraph 36(2)b of the Building Regulations (2010) (as amended). Such evidence shall be in the form of a post construction water efficiency calculator.

Reason: To ensure that the development complies with PCS15 of the Portsmouth Plan and does not exceed the scope of Nitrate Mitigation Credits purchased.

### **6. PD works:**

The rear dormer and front rooflights shown on the plans (Ref: Proposed Plans PG.9041.24.5 Rev B) shall be completed prior to the first occupation of the property as an HMO.

Reason: To ensure the layout provided is fully implemented and the accommodation is suitable for the proposed occupation in accordance with Policies PCS20 and PCS23 of the Portsmouth Plan (2012).

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# Agenda Item 9

24/01524/FUL

WARD: COSHAM

180 HAWTHORN CRESCENT PORTSMOUTH PO6 2TR

**CHANGE OF USE FROM DWELLING HOUSE (CLASS C3) INTO HOUSE OF MULTIPLE OCCUPANCY (C4 USE CLASS) CONSTRUCTION OF SINGLE STOREY REAR EXTENSION AFTER DEMOLITION OF LEAN-TO STRUCTURE**

[24/01524/FUL | Change of use from dwelling house \(Class C3\) into House of Multiple Occupancy \(C4 use class\) construction of single storey rear extension after demolition of lean-to structure | 180 Hawthorn Crescent Portsmouth PO6 2TR](#)

**Application Submitted By:**

Mr Bernard Harding  
BH Architecture Ltd

**On behalf of:**

Mr Gavin Bateman

**RDD:** 20.12.2024

**LDD:** 15.02.2025

## 1. SUMMARY OF MAIN ISSUES

- 1.1 The application is brought before Planning Committee due to six or more letters from separate addresses having been received objecting to the proposals.
- 1.2 The application is for the change of use of the property from a dwellinghouse (Class C3) to a House of Multiple Occupation (HMO) (Class C4). Additionally, a single storey rear extension is proposed following the demolition of an existing rear extension. The main issues for consideration in the determination of the application are set out in para. 8.1 below.

## 2. SITE AND SURROUNDINGS

- 2.1 The application relates to a two-storey mid terrace dwellinghouse (Class C3) located on the southern side of Hawthorn Crescent as shown in Figure 1 below. The dwellinghouse sits back from the pavement with a paved driveway and to the rear of the property is an enclosed garden. The existing layout comprises of a WC, dining room, kitchen and living room at ground floor level; three bedrooms and a shower room at first floor level and a further one bedroom at second floor level.
- 2.2 The application site is within a predominantly residential area characterised by terraced dwellings, largely of two stories.

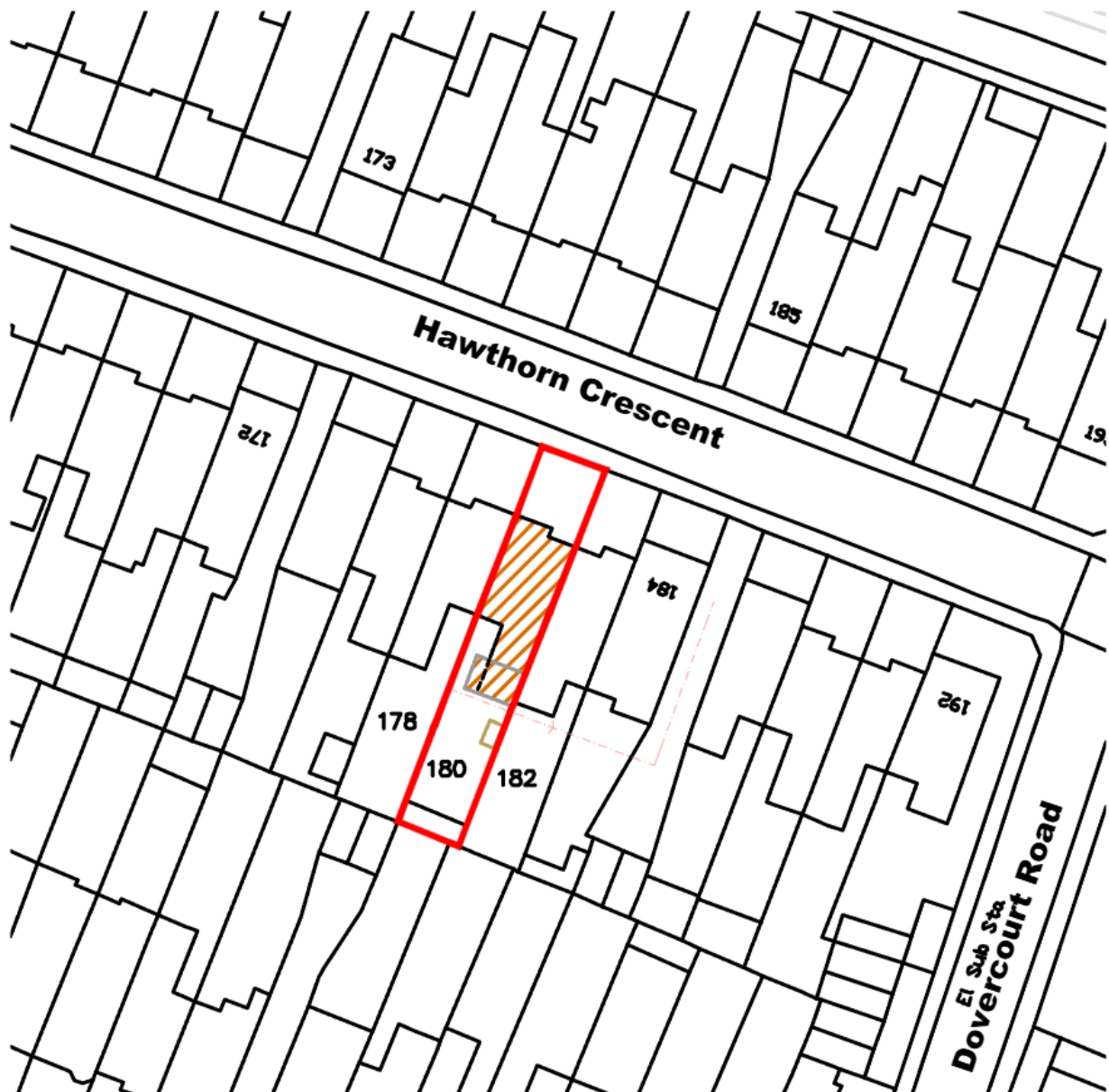


Figure 1 Site Location Plan

### 3. PROPOSALS

- 3.1 Planning permission is sought for the change of use of the property from a dwellinghouse (Class C3) to a House of Multiple Occupation (HMO) (Class C4).
- 3.2 The proposed internal accommodation, as shown in Figure 4 below, comprises the following:
  - Ground Floor - Two bedrooms (single occupancy) both with en-suite bathrooms; communal combined amenity area
  - First Floor - Two bedrooms (single occupancy) all with en-suite bathrooms; shared WC
  - Second Floor - One bedroom (single occupancy) with en-suite bathroom
- 3.3 The rear dormer at first floor level is existing, the rear extension is to be constructed and forms part of the development description. This would not benefit from Permitted Development Rights as it projects beyond a side elevation of the property and is more than half the width of the original dwellinghouse.

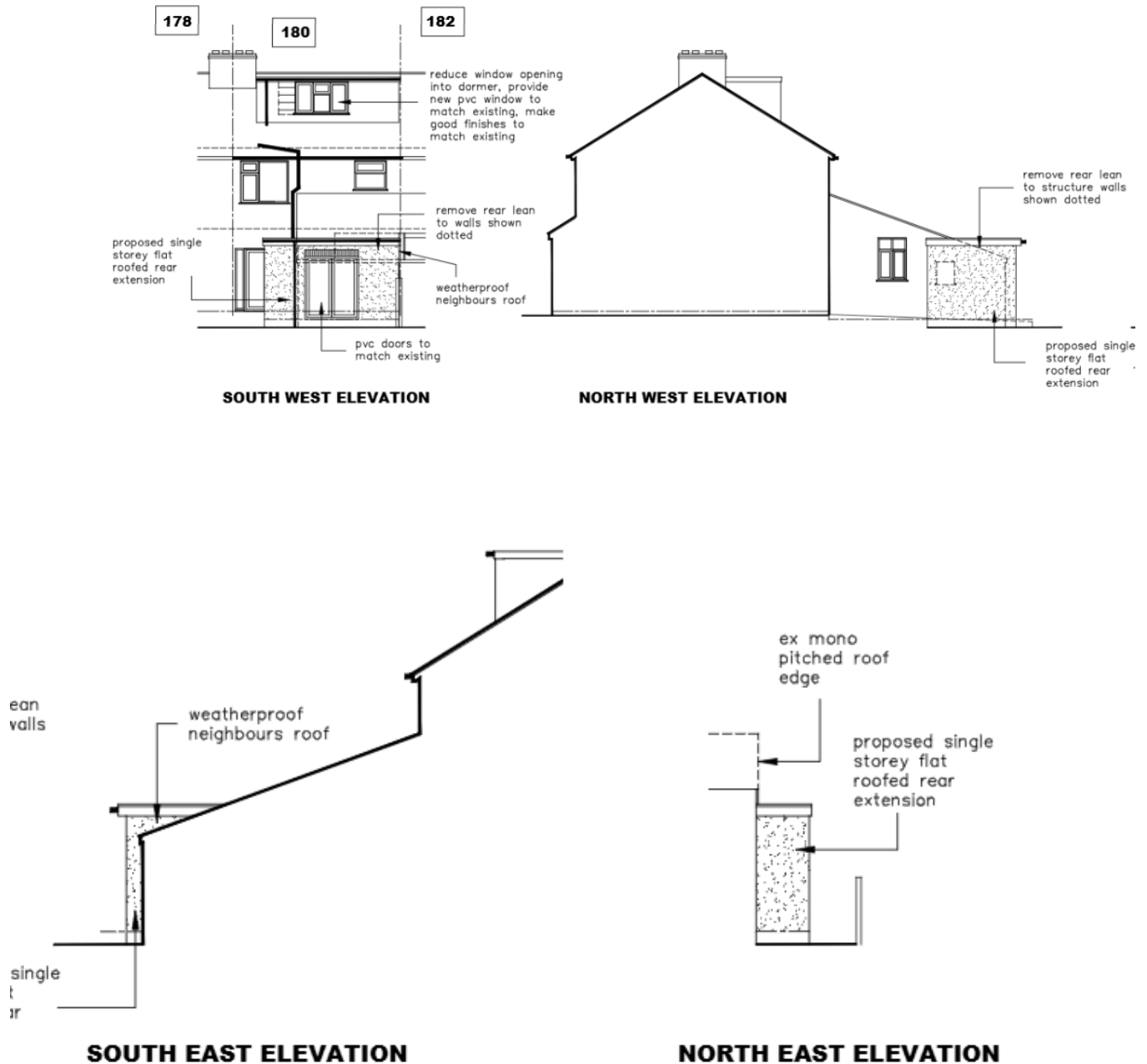


Figure 2 Proposed Elevations

#### 4. PLANNING HISTORY

##### 4.1 24/01282/FUL

Change of use from dwellinghouse (Class C3) to purposes falling within Class C4 (House in Multiple Occupation) including construction of single storey rear extension after demolition of lean-to structure

Refused due to lack of communal space. This application proposed 6 bedrooms.

11.12.2024

#### 5. CONSULTATIONS

##### 5.1 Highways Team

No objection - Hawthorn Crescent is a residential road with bus stops and local amenities in close proximity along Chatsworth Avenue and Portsmouth Road. It is not considered that the size of development would lead to a material impact to the function of the highway or result in any unacceptable safety impact. There may be increase insidences of vehicles hunting for space in the vicinity, this is however an issue of residential amenity for your consideration of the application, but it is noted that the property does benefit from two off road parking spaces. Condition required for secure cycle storage.

## 5.2 Private Sector Housing

Based on the floorplan provided we are satisfied there is suitable living space for the proposed number of occupants. The property would require a licence under Part 2, Housing Act 2004.

## 6. REPRESENTATIONS

6.1 Letters to adjoining properties were sent on 27.01.2025. A site notice was erected outside the site on 30.01.2025.

6.2 10 representations have been received in respect of the proposals. All 10 object to the scheme. 2 of these letters share the same postal address.

6.3 The following objections were made to the scheme;

- Increase in noise and disturbance;
- Increase in crime and anti-social behaviour;
- Lack of car parking provision leading to an increase in traffic and exacerbation of existing on-street parking problems;
- Undue strain on local services and infrastructure, including sewage, drainage, waste management and Doctors/Dentists
- Concerns about impact on community and loss of family dwelling
- No other HMOs in the local area would mean the proposal is out of character
- Over occupation of the property
- Overdevelopment of the site and issues with room sizes

6.4 The following points were also made which are not considered to be material considerations in the determination of the application;

- Party wall issues
- Loss of property value
- The application, if approved, could set a precedent for more HMO properties

## 7. POLICY

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications must be determined in accordance with the development plan for an area, except where material considerations indicate otherwise. The development plan in this case comprises the Portsmouth Plan (2012) and the saved policies of the Portsmouth City Local Plan (2006)

7.2 The following policies are of particular relevance in this case:

### **The Portsmouth Plan (2012)**

- PCS23 - Design & Conservation
- PCS17 - Transport

- PCS20 - Houses in Multiple Occupation

### **Pre-Submission Portsmouth Local Plan 2020-2040**

The draft Pre-Submission Portsmouth Local Plan 2020-2040 was endorsed at full council on 28 May 2024 and consultation on the Pre-Submission Local Plan closed in September 2024. Policies relevant to this application include:

- PLP1: Design
- PLP20: Houses in Multiple Occupation
- PLP22: Space Standards
- PLP47: Movement and Transport
- PLP48: Access and Parking

7.3 Having regard to the NPPF paragraph 49 and the stage the emerging plan has reached in its preparation, limited weight is given to the above policies at this precise time.

### **7.4 Supplementary Planning Documents and Guidance**

7.5 The following have been adopted by the Council as Supplementary Planning Documents and are relevant to the proposals;

- Updated Interim Nutrient Neutral Mitigation Strategy for New Dwellings (2022)
- Houses in Multiple Occupation (HMOs) (2019) - ('the HMO SPD')
- Solent Recreation Mitigation Strategy (2017)
- The Parking Standards and Transport Assessments Supplementary Planning Document (2014)

### **7.6 National Guidance**

- National Planning Policy Framework (2024)
- National Planning Practice Guidance
- The Technical Housing Standards - nationally described space standards (2015)

## **8. OFFICER ASSESSMENT**

8.1 The main issues for consideration in the determination of the applications include the following:

- The principle of development;
- Housing land supply;
- Acceptability of the external alterations in regard to design
- The standard of accommodation;
- Impact upon amenity neighbouring residents;
- Parking;
- Waste;
- Impact upon the Solent Protection Areas; and
- Any other raised matters

### **8.2 Principle of Development**

8.3 Permission is sought for the flexible use of the property for purposes falling within Class C4 (house in multiple occupation) (HMO) 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 44 properties within a 50-metre radius of the application site, there are no confirmed HMOs, as shown in Figure 1 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.



Figure 3 Existing HMOs within 50m of the application site (none)



- 8.6 Following further investigation, no additional HMOs have been uncovered by the Case Officer. The application proposal would bring the percentage of HMOs within the area up to **2.3%**. This would be lower than the 10% threshold above which an area is considered to be imbalanced and in conflict with Policies 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 **Housing Land Supply**
- 8.10 The National Planning Policy Framework (NPPF) states that planning decisions should be based on a presumption in favour of sustainable development (paragraph 11). That presumption does not apply where the project is likely to have a significant effect on a 'habitats site' (including Special Protection Areas) unless an appropriate assessment has concluded otherwise (paragraph 195). Where a local planning authority cannot demonstrate a five-year housing land supply of deliverable sites, the NPPF deems the adopted policies to be out of date and states that permission should be granted for development unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or;
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
- 8.11 Currently, the Council can demonstrate 4.97 years supply of housing land (Authority Monitoring Report 2024). The starting point for determination of this application is therefore the fact that the authority cannot demonstrate a five-year supply of housing. This development would provide greater occupation of the building, so make a small, additional contribution towards the City's housing needs, at a sustainable location in the city, with good access to public transport, retail and services, employment, leisure, health facilities, etc. The application is therefore acceptable in principle, complies with Policies PCS19 & PCS20 and these factors weigh in favour of the proposed development. The further, specific impacts of the proposal will be considered below as to whether the development is appropriate in detail.
- 8.12 **Design**
- 8.13 Policy PCS23 of the Portsmouth Plan echoes the principles of good design set out within the National Planning Policy Framework and requires all new development be well designed and respect the character of the city. The following will be sought in new development, appropriate scale, density, layout, appearance and materials in relation to the particular context.

- 8.14 The proposed extension to the rear is modest in scale with a total depth of 2.95m from the rear wall of the property. Due to the siting of the extension to the rear, its single storey scale and the surrounding buildings, the extension will not be visible in the streetscene of surrounding roads. The extension is not considered disproportionate in scale to the existing building and its design is appropriate in relation to the property.
- 8.15 Overall, the proposed rear extension is considered to be acceptable and in accordance with Policy PCS23.
- 8.16 **Standard of Accommodation**
- 8.17 The application seeks to use the property as a C4 HMO which would in planning terms allow occupation by up to six individuals. The Applicant has referred to five occupiers in the submission. As the communal area is only adequate for up to five occupiers, a condition is suggested to limit occupancy levels.

Submitted plans have been checked by officers, and, notwithstanding the annotations on the submitted plans, the measured rooms sizes have been used for assessment purposes. For the proposed C4 HMO use, the room sizes have been assessed against the space standards for an HMO as shown in Table 1 below.

Room	Area Provided	Required Standard
Bedroom 1 (single occupancy) (ground floor)	8.75m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 2 (single occupancy) (ground floor)	13.1m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 3 (single occupancy) (first floor)	9.7m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 4 (single occupancy) (first floor)	8.7m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 5 (single occupancy) (second floor)	10.4m <sup>2</sup>	6.51m <sup>2</sup>
Combined Living Space	24.7m <sup>2</sup>	24m <sup>2</sup>
Bedroom 1 ensuite	2.8m <sup>2</sup>	2.74m <sup>2</sup>
Bedroom 2 ensuite	2.8m <sup>2</sup>	2.74m <sup>2</sup>
Bedroom 3 ensuite	2.8m <sup>2</sup>	2.74m <sup>2</sup>
Bedroom 4 ensuite	2.8m <sup>2</sup>	2.74m <sup>2</sup>
Bedroom 5 ensuite	3.5m <sup>2</sup>	2.74m <sup>2</sup>
Shared WC (first floor)	3.9m <sup>2</sup>	N/A Additional
Additional first floor communal area	4.5m <sup>2</sup>	N/A Additional

Table 1 Schedule of Floor sizes

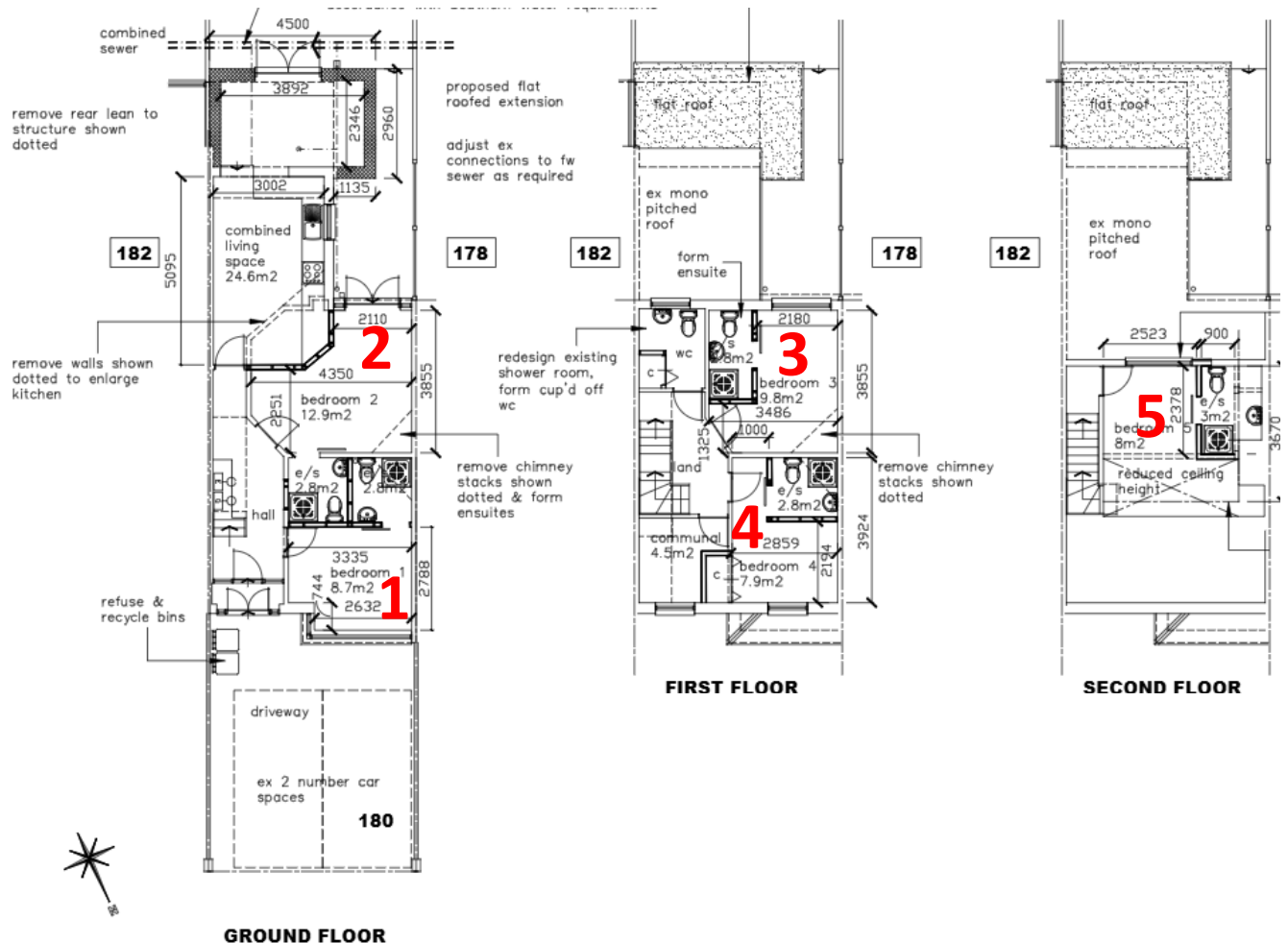


Figure 4 Proposed Floorplans

8.18 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. An unrestricted C4 consent could allow up to six occupiers. The combined communal area is below the required 34m<sup>2</sup> for six occupiers, therefore a condition is required to limit occupancy to 5 occupiers.

8.19 The scheme therefore complies with Policy PCS23 and the HMO SPD in this regard.

**8.20 Impact on neighbouring living conditions**

8.21 In terms of the impact on the living conditions of the adjoining occupiers, it is considered that the level of activity associated with the use of the 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 in this case up to 5 unrelated persons as a house in multiple occupation. This is borne out by the fact that without an Article 4 Direction made in 2011, the application would be permitted development under Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015 and would not require planning permission.

8.22 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 an additional HMO is acceptable. The HMO SPD & PCS20 specifically permits additional HMOs in such locations in order to support mixed and balanced communities.

- 8.23 Activity with 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. However, there is no evidence this will cause significant harm to neighbouring living conditions and therefore it is considered that the impact of one HMO (bringing the total to one within a 50m radius) would not have any demonstrable adverse impact to wider amenity.
- 8.24 With regards to the proposed rear extension, this would ordinarily be within permitted development limits for depth as noted in para. 3.3 above. The extension would project approximately 0.3m beyond the rear addition of the adjoining neighbour at no.182 Hawthorn Crescent. It is not considered that there would be a materially harmful impact on neighbouring living conditions by means of overshadowing, loss of light, privacy or increased dominance.
- 8.25 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal and the scheme therefore complies with Policy PCS23 in this regard.
- 8.26 **Highways/Parking**
- 8.27 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. The expected level of parking demand for a Class C3 dwellinghouse with 4 or more bedrooms (as existing) is also 2 off-road spaces.
- 8.28 The C4 element of the proposal compared to the existing property has the same requirement for parking spaces. As the level of occupation associated with a HMO is not considered to be significantly greater than the occupation of the property as a Class C3 dwellinghouse, it is considered that an objection on either highway safety grounds, or car parking standards, could not be sustained on appeal. It should be noted that the property could be occupied by a large family and/or with adult children, each potentially owning a separate vehicle.
- 8.29 The application site has two off road parking spaces on the paved front garden area, and therefore the provision of parking spaces is in accordance with the City Council's Parking Standards SPD.
- 8.30 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.
- 8.31 The scheme therefore complies with Policy PCS17 in this regard.
- 8.32 **Waste**
- 8.33 The storage of refuse and recyclable materials would remain unchanged, and an objection on waste grounds would not form a sustainable reason for refusal.
- 8.34 **Impact on Special Protection Areas**

8.35 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 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.

#### 8.36 **Other matters raised in representations**

8.37 Party wall issues are a civil matter. The applicant has correctly served Certificate B for the rear extension works. Loss of property value is not a material planning consideration. All applications are assessed on their own merits and therefore the granting of planning permission for this application would not set a precedent for further HMOs within the local area. The Council's adopted policies and guidance support the provision of further HMOs subject to compliance with the criteria in these policies and guidance.

#### 8.38 **Human Rights**

8.39 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.

8.40 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.

### 9.0 **CONCLUSIONS AND PLANNING BALANCE**

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), the HMO SPD, and the objectives of the National Planning Policy Framework (NPPF) (2024).

### **RECOMMENDATION**

Conditional Permission

### **CONDITIONS**

#### **1. Time Limit**

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.

#### **2. Approved Plans**

Unless otherwise agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawing - Drawing

numbers: Block and Location Plan 5; Proposed Elevations 4; Proposed Floor Plans 3 Rev C

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

### **3. Occupancy Limit**

The Class C4 HMO hereby approved shall only be occupied by a maximum of 5 residents

Reason: To order for the property not to exceed the SPD standards for the number of residents given the lack of further communal space in accordance with Policy PCS20 of the Portsmouth Plan.

### **4. Cycle Storage**

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.

#### **Informative:**

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

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

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

Phone Number: 023 9284 1659

# Agenda Item 10

24/01161/PLAREG

WARD:NELSON

137A LONDON ROAD PORTSMOUTH PO2 9AA

RETROSPECTIVE APPLICATION FOR CHANGE OF USE OF UPPER FLOORS FROM HOUSE IN MULTIPLE OCCUPATION (CLASS C4) TO 5-BED/7-PERSON HOUSE OF MULTIPLE OCCUPATION (SUI GENERIS)

[24/01161/PLAREG | RETROSPECTIVE APPLICATION FOR CHANGE OF USE OF UPPER FLOORS FROM HOUSE IN MULTIPLE OCCUPATION \(CLASS C4\) TO 5-BED/7-PERSON HOUSE OF MULTIPLE OCCUPATION \(SUI GENERIS\) | 137A LONDON ROAD PORTSMOUTH PO2 9AA](#)

**Application Submitted By:**

Mr James Bengree  
JB Architectural Design Studio

**On behalf of:**

Mr Robert Johnson

**RDD:** 25th September 2024

**LDD:** 25th December 2024

## 1. SUMMARY OF MAIN ISSUES

- 1.1 This application is brought before Planning Committee due 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

## 2. SITE AND SURROUNDINGS

- 2.1 The application site is a three-storey mixed use planning unit, with a commercial usage to the frontage of the ground floor, with the communal area of the existing HMO to the rear. The first and second floors contain 5 bedrooms served by en-suites. Permission was granted for this layout (with the HMO aspect being a C4 usage for up to 6 unrelated occupiers). This existing use is explained in the Planning History section of this report.

## 3. PROPOSALS

- 3.1 The Applicant has sought planning permission for the change of use of the dwelling from the current lawful use of 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

## 4. PLANNING HISTORY

- 4.1 **App No - 17/01610/FUL**  
Raise height of 2-storey rear projection; construction of part 2-storey/part single-storey rear/side extension, and dormer extension to rear roofslope; and use of part of ground floor and upper floors as a HMO within Class C4 with associate cycle and refuse storage

**Decision** - Granted

**Date of Decision** - 13/12/17

4.2 **App No - 19/00595/FUL**

Change of use of part of ground floor commercial unit (Class A1/A2) and upper floors to five bedroom/seven person House of Multiple Occupation (Sui Generis); to include construction of part single/part two storey rear/side extension; dormer to rear roofslope and associated cycle and refuse stores.

**Decision** - Refuse

**Date of Decision** - 15/03/21

**Reasons for Refusal:**

- 1) *The size of the accommodation provided in bedroom 5 was insufficient to provide occupants with amenity in preference or in addition to the communal living space and therefore overall, the development is not considered to provide a good standard of living environment for those occupants, contrary to PCS23 of the Portsmouth Plan.*
- 2) *The development would have an unmitigated likely significant effect on the Solent SPA through recreational disturbance and increased eutrophication contrary to the Habitats Regulations.*

**5. CONSULTATIONS**

5.1 **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. No adverse comments to be made around proposed layout.

5.2 **Highways** - No highways safety issues raised, but note that an increase in occupancy could result in more persons competing for a parking space, which is a matter of residential amenity for the Local Planning Authority to consider.

**6. REPRESENTATIONS**

6.1 Letters to adjoining properties were sent on 05.11.24. Site Notices were erected outside the site and on adjoining roads on 05.11.24.

6.2 No objections have been received to the application.

**7. POLICY CONTEXT**

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications must be determined in accordance with the development plan for an area, except where material considerations indicate otherwise. The development plan in this case comprises the Portsmouth Plan (2012) and the saved policies of the Portsmouth City Local Plan (2006).

7.2 The following policies are of particular relevance in this case:

**The Portsmouth Plan (2012)**

- PCS17 - Transport
- PCS20 - Houses in Multiple Occupation
- PCS23 - Design & Conservation

**Pre-Submission Portsmouth Local Plan 2020-2040**



The draft Pre-Submission Portsmouth Local Plan 2020-2040 was agreed at full council on 28 May 2024 and consultation on the Pre-Submission Local Plan closed in September 2024. The Pre-Submission Portsmouth Local Plan is due to be submitted for examination in 2025.

- PLP1: Design
- PLP20: Houses in Multiple Occupation
- PLP22: Space Standards
- PLP47: Movement and Transport
- PLP48: Access and Parking

7.3 Having regard to the NPPF paragraph 49 and the stage the emerging plan has reached in its preparation, limited weight is given to the above policies at this precise time.

#### 7.4 **Supplementary Planning Documents**

7.5 The following have been adopted by the Council as Supplementary Planning Documents and are relevant to the proposals;

- Updated Interim Nutrient Neutral Mitigation Strategy for New Dwellings (2022)
- Houses in Multiple Occupation (HMOs) (2019) - ('the HMO SPD')
- Solent Recreation Mitigation Strategy (2017)
- The Parking Standards and Transport Assessments Supplementary Planning Document (2014)

#### 7.6 **National Guidance**

- National Planning Policy Framework (2024)
- National Planning Practice Guidance
- The Technical Housing Standards - nationally described space standards (2015)

### 8. **OFFICER ASSESSMENT**

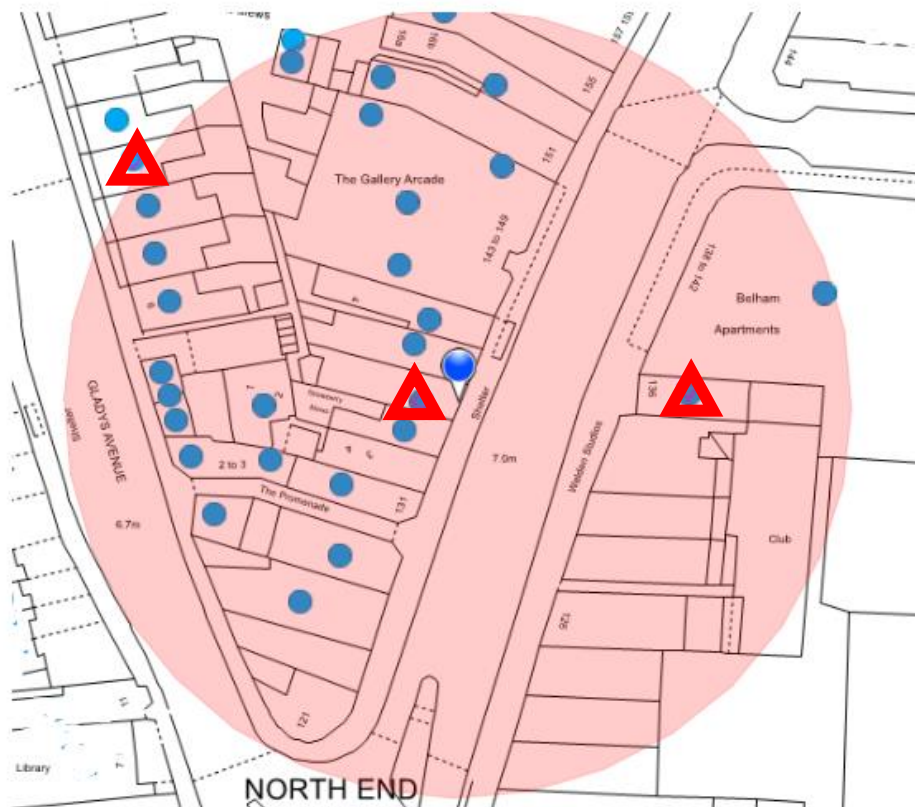
8.1 The main issues to consider in the determination of this application is whether the proposal is acceptable in principle.

#### 8.2 Principle

8.3 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 the housing mix of certain communities. Two of the key matters of principle 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.

8.4 In this case the application site is already in lawful use as an HMO with 5 bedrooms and the application has been made to regularise the increase in occupation by 2 occupants by double occupancy of two rooms. As such the application is not considered to have any material impact on the number of HMOs in the area and thereby the balance of the local community. 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 assessment.

8.5 For reference, it can be noted however that the relevant 50m radius area is currently made up of 3 HMOs out of 83 properties, a percentage of 3.6%. This proposal has no effect on these proportions. The HMO SPD also describes a number of circumstances where new HMOs are considered not desirable, such as where they 'sandwich' single



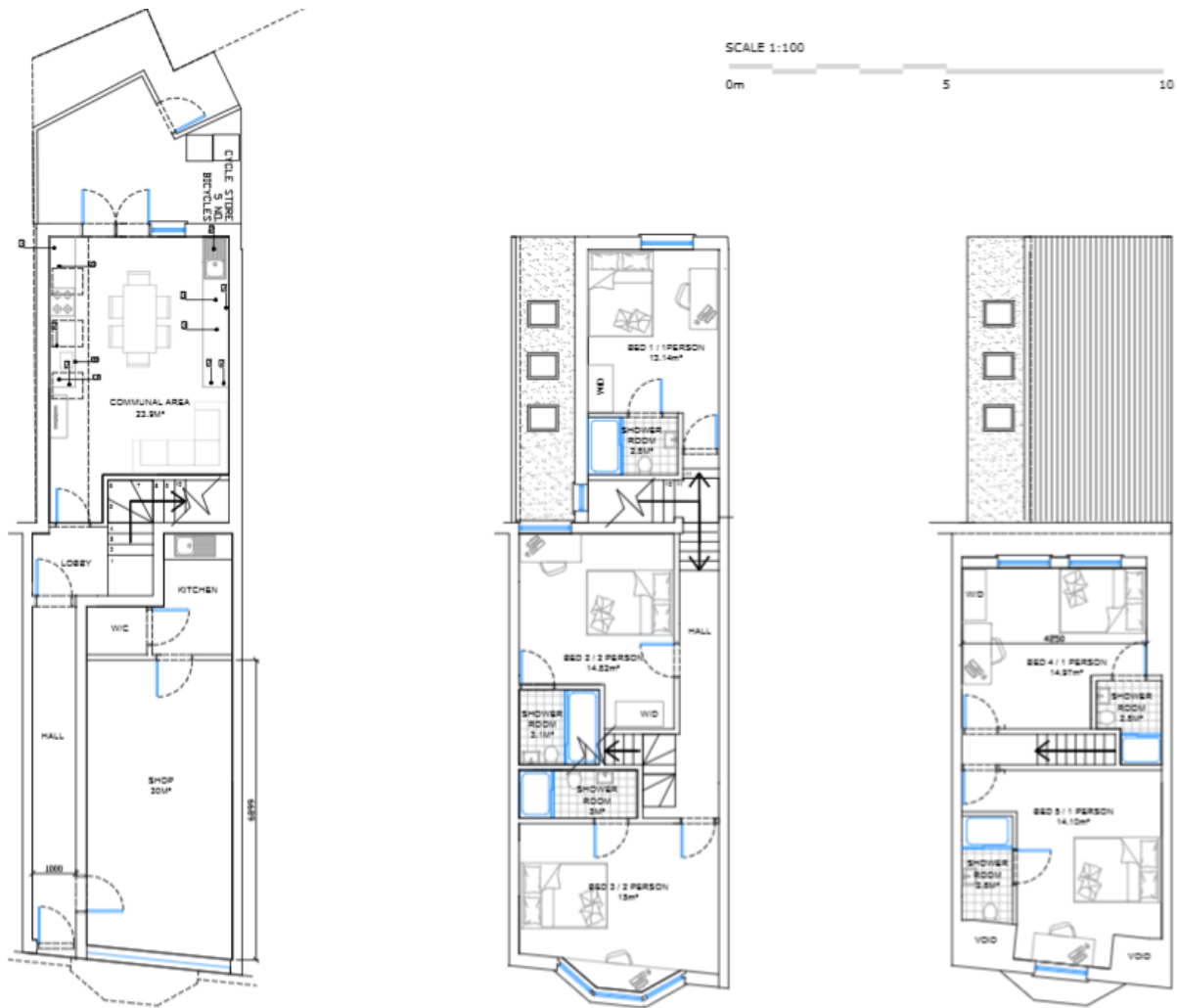
household dwellings between HMOs or create a number of HMOs next to each other. As this proposal does not involve the creation of a new HMO, these considerations are not brought into effect.

Figure 1: Residential properties and HMOs within the 50m radius of the application site.

8.6 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:	Size provided for in Guidance:
Bedroom 1	13.14m <sup>2</sup>	10m <sup>2</sup>
Bedroom 2 (double occ)	14.82m <sup>2</sup>	14m <sup>2</sup>
Bedroom 3 (double occ)	15.00m <sup>2</sup>	14m <sup>2</sup>
Bedroom 4	14.97m <sup>2</sup>	10m <sup>2</sup>
Bedroom 5	14.10m <sup>2</sup>	10m <sup>2</sup>
En suite 1	2.8m <sup>2</sup>	2.74m <sup>2</sup>
En suite 2	3.1m <sup>2</sup>	2.74m <sup>2</sup>
En suite 3	3m <sup>2</sup>	2.74m <sup>2</sup>
En suite 4	2.8m <sup>2</sup>	2.74m <sup>2</sup>

En suite 5	2.8m <sup>2</sup>	2.74m <sup>2</sup>
Combined Living Space	23.9m <sup>2</sup>	22.5m <sup>2</sup>



8.7 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 the communal shared living area. 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 22.5m<sup>2</sup>) for combined living accommodation in circumstances where all bedrooms are at least 10m<sup>2</sup> 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.

8.8 Amenity and Parking

8.9 The proposal would increase the occupancy of the existing HMO by 2 occupants. 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.

8.10 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 and Policy PCS17 of the Local Plan.

8.11 Other Material Considerations

- 8.12 A key and overriding consideration in this case is the necessity to recognise the fallback position available to the applicant; that is the position they could take if this application is refused. In this case the addition of 1 occupant to the existing lawful HMO is not considered to amount to a material change in the use of the dwelling. Under s57 of the Town and Country Planning Act 1990 ('TCPA'), there is a general requirement that development should not to 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.
- 8.13 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 planning judgement to be assessed on the facts of the particular proposal. 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.
- 8.14 While every application must be considered on its own individual merits, these examples provide clear guidance on the correct interpretation of s55 of the TCPA and these appeals decisions are considered to be a material consideration in the determination of similar applications. Members may also note the previous decisions of Portsmouth's Planning Committee - contrary to Officer recommendation - determined similar changes in occupation amounted to a material change in use. This is 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, 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.
- 8.15 In the circumstances of the current application, 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 fallback position to lawfully carry out the change in occupation without needing planning permission.
- 8.16 Notwithstanding the advice of Officers above, should it be considered necessary to assess the merits of the application, 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 in the development against any benefits arising. Principally, for this HMO application, the benefits are the provision of housing through the provision of additional 1 bedspace of occupation within the HMO. While this is a small contribution to the overall housing stock, the Council currently is unable to demonstrate a 'five year supply' of housing, with only a 3.31 year supply currently identified.

- 8.17 In this circumstance, the Council is directed that the policies which are most important to housing provision within the Local Plan are out of date provided none of the exceptions in NPPF Paragraph 11 footnote #7 apply, including impacts to habitats sites. The consequence of this is that decision makers 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 is considered to be insignificant and therefore falls short of significantly and demonstrably outweighing even the small benefit to the city's housing stock of the provision of bedspaces, should such assessment be considered necessary.
- 8.18 In the event it is concluded that planning permission is required, it is considered that the previous reasons for refusal are overcome. The first reason for refusal is overcome by ensuring that the plans are clearly labelled to show that only rooms large enough to accommodate double occupancy are available for 2 persons to share. The second reason for refusal can be overcome through the completion of the relevant legal agreement if the proposal is considered to be development and otherwise considered to be acceptable by members.
- 8.19 Impact on Special Protection Areas
- 8.20 It is acknowledged that there are ongoing issues around the nitrification of the Solent due to increased levels of runoff from residential development. The applicant's fallback position set out above allows the occupation of the site without further planning permission being required. As such it is considered that the proposal would not amount to development requiring planning permission and therefore would not have a Likely Significant Effect on the Solent Special Protection Areas or result in an increased level of nitrate discharge.

## 9. CONCLUSION

- 9.1 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 result in a material change in the use of this property. As such planning permission is not required and the proposal can be carried out as a fallback 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.
- 9.2 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 the following;
- Implementation of the additional occupancy within 3 year (a Time Limit condition);
  - Development be carried out in accordance with plans submitted (an Approved Plans condition) and;
  - 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

**Conditions: None**