

260 LABURNUM GROVE PORTSMOUTH PO2 0EX

CHANGE OF USE FROM DWELLING HOUSE (CLASS C3) TO HOUSE IN MULTIPLE OCCUPATION FOR SEVEN PERSONS (SUI GENERIS).

LINK TO DOCUMENTS:

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=RFS77HMOL8K00](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=rfs77hmol8k00)

Application Submitted By:

Applecore PDM Ltd
FAO Mrs Carianne Wells

On behalf of:

Tara Powell

RDD: 1st August 2022

LDD: 27th September 2022

1.0 SUMMARY OF MAIN ISSUES

- 1.1 This application is brought before Planning Committee due to the number of objections (31), including from Councillor Swann. There is also a Petition of objection containing 211 signatures, and a call-in request from Councillor Cllr Swann.
- 1.2 The main issues for consideration in the determination of the application are considered to be as follows:
- The principle of development;
 - Standard of accommodation;
 - Parking;
 - Waste;
 - Amenity impacts upon neighbouring residents;
 - Impact upon the Solent Protection Areas; and
 - Any other raised matters.

2.0 SITE AND SURROUNDINGS

- 2.1 The application relates to a two-storey, mid-terrace dwellinghouse (Class C3) located on the southern side of Laburnum Grove as shown in **Figure 1** below. The dwellinghouse is set back from the road by a front forecourt and at the rear is an enclosed garden. The existing layout comprises of a lounge, dining-kitchen, living room, conservatory and WC at ground floor level, and three bedrooms and a bathroom at first floor level.
- 2.2 The application site is within a predominantly residential area characterised by rows of similar two-storey terraced properties with a similar visual style. Some of the properties on the road have been subdivided into flats, the nearest being at the easterly neighbour (No. 262 Laburnum Grove).

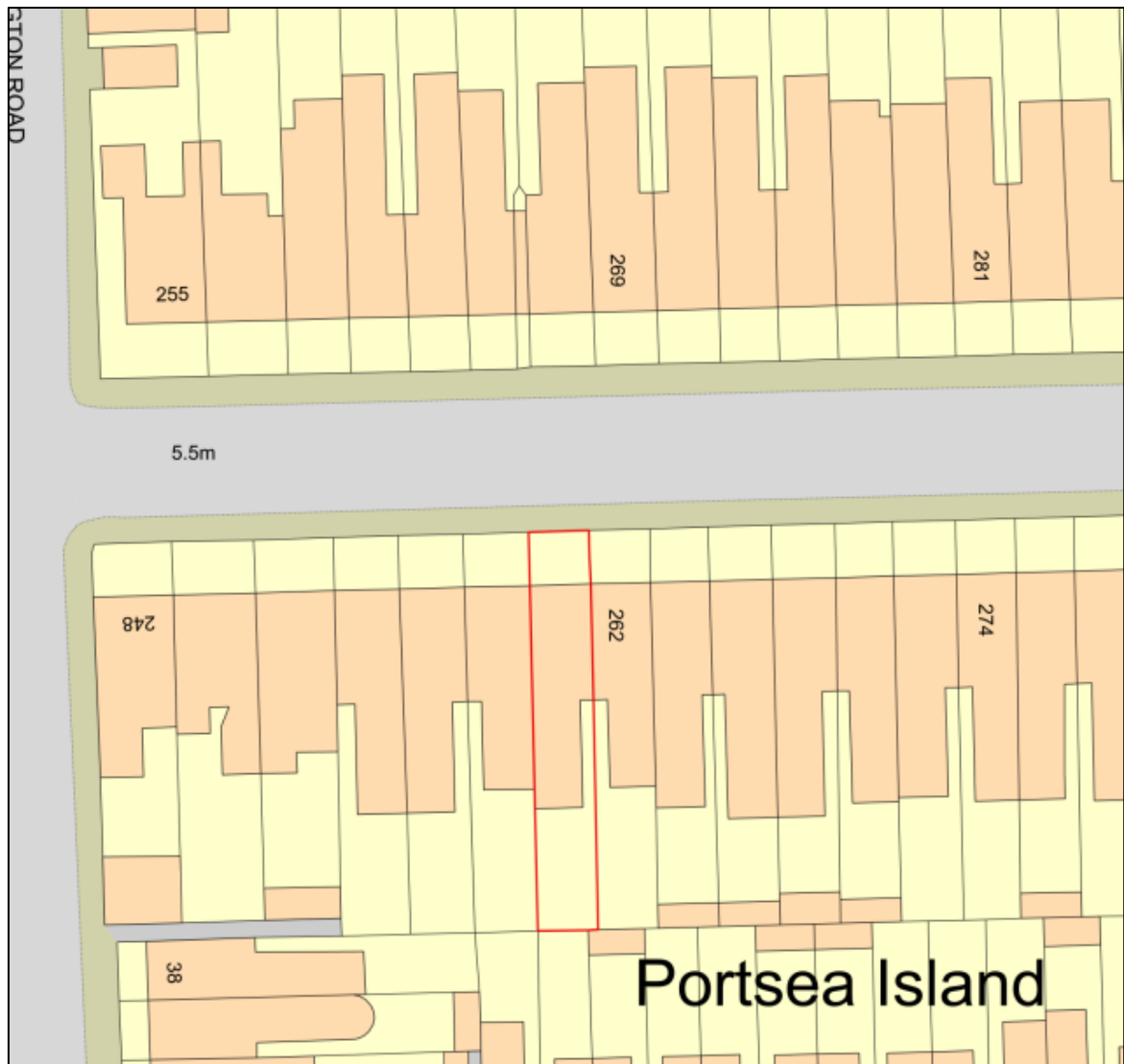


Figure 1 - Site Location Plan

3.0 THE PROPOSAL

- 3.1 Planning permission is sought for the change of use of the property from a dwellinghouse (Class C3) to House in Multiple Occupation for seven persons (Sui generis).
- 3.2 The proposed internal accommodation, as shown in **Figure 2** below, comprises the following:
- Ground Floor - Two bedrooms (each with a shower, toilet and handbasin ensuite), Kitchen/Dining Communal room, and a WC with handbasin;
 - First Floor - Three bedrooms (each with a shower, toilet and handbasin ensuite); and
 - Second Floor - Two bedrooms (each with a shower, toilet and handbasin ensuite).
- 3.3 The Applicant intends to erect a single storey rear extension, a rear dormer extension within the main roof and over part of the back addition roof, and insert two rooflights within the front roofslope, all under permitted development, to facilitate the enlargement of the property before undertaking the proposed development (change of use). The extensions, which do not currently exist, can be built under permitted development while the property is in C3 use and would need to be constructed and occupied as Class C3 prior to the property then being occupied as a Sui generis HMO. This matter will be conditioned as part of any permission.

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

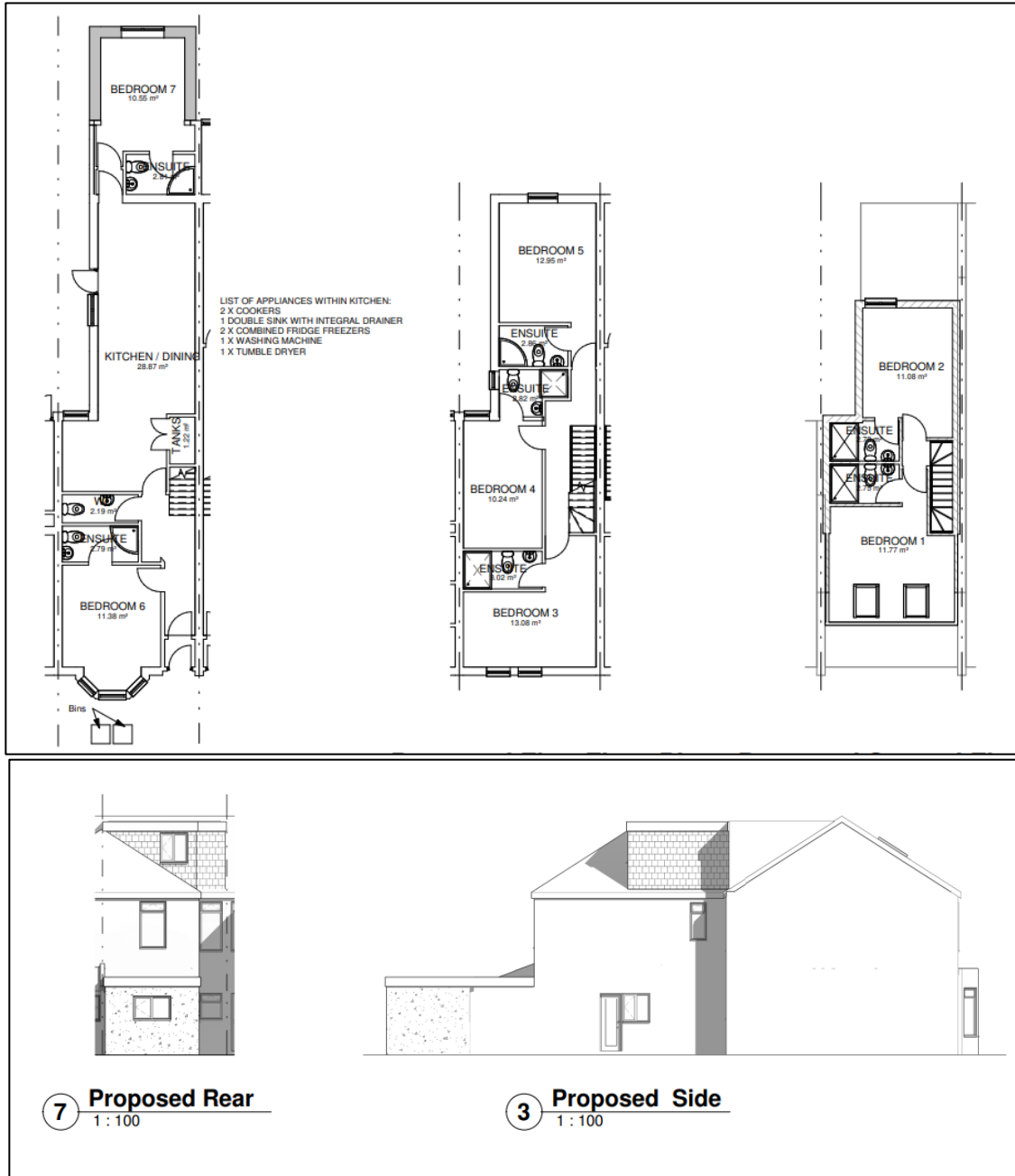


Figure 2 and 3 - Proposed Floor Plans and Proposed Elevations

4.0 PLANNING HISTORY

4.1 There is no planning history for the property.

5.0 POLICY CONTEXT

Portsmouth Plan (2012)

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

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

Other Guidance

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

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

6.0 CONSULTATIONS

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

6.2 Highways Engineer - no objection.

6.3 Laburnum Grove is an unclassified residential street with the majority of terraced dwellings along its entirety. Few of the properties have off street parking facilities with the majority of parking accommodated through unrestricted on street parking. The demand for parking on street regularly exceeds the space available particularly in the evenings and weekends.

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

6.5 Portsmouth City Councils Parking SPD gives the expected level of vehicle and cycle parking within new residential developments. The requirement for a 3 bedroom dwelling is 1.5 vehicle spaces and 2 cycle spaces, this compared with the requirement for a 7 bedroom HMO is 2 spaces and 4 cycle spaces. Consequently, this proposal increases the parking demand by 0.5 spaces and secure cycle spaces by 2. The application details that 4 secure cycle spaces will be provided within the rear garden.

6.6 No parking survey information has been submitted to demonstrate on street capacity to accommodate this shortfall within a 200m walking distance of the application site.

6.7 Notwithstanding the policy conflict and absence of information regarding availability of on street parking, given the quantum of the additional shortfall being only half a parking space I do not believe refusal of this application on these grounds could be upheld in the event of an appeal and therefore I would not wish to raise a highway objection to this proposal.

6.8 Natural England - no objection subject to the appropriate mitigation being secured

7.0 REPRESENTATIONS

7.1 31 representations have been received objecting to the proposed development, including from Councillor Swann, as well as a petition of objection with 211 signatures. Councillor Swann has requested that the item be heard at Planning Committee.

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

- a) Over concentration of HMOs on the road and immediate area;
- b) Undue strain on local services and infrastructure: Impact on water and sewage capacity, drain on electricity and internet supplies;
- c) Increase in noise and disturbance;
- d) Increase in crime and anti-social behaviour;
- e) Waste and litter concerns;
- f) Increase in pollution to the detriment of air quality;
- g) Loss of family home from the existing housing stock;
- h) Property is too small for seven residents;
- i) Lack of car parking provision leading to an increase in traffic and exacerbation of existing on-street parking problems;
- j) 4 cycles spaces not sufficient for the level of occupation;
- k) Concerns over accuracy of HMO Database for area;
- l) Concerns around maintenance and upkeep;
- m) Building works going ahead prior to decision being issued;

8.0 COMMENT

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

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

Principle of development

8.2 Permission is sought for the use of the property as a House in Multiple Occupation for seven persons (Sui generis). The property currently has a lawful use as a self-contained dwelling (Class C3). For reference, a Sui Generis HMO is defined as a property occupied by more than six unrelated people who share basic amenities such as a kitchen or bathroom.

8.3 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.

- 8.4 Based on the information held by the City Council, of the 65 properties within a 50 metre radius of the application site, there is only 1 confirmed HMO (Class C4) at 285 Laburnum Grove as shown in the plan below. Whilst this is the best available data to the Local Planning Authority (LPA) and is updated on a regular basis, there are occasions where properties have been included or omitted from the database in error or have lawfully changed their use away from Class C4 HMOs without requiring the express permission of the LPA.
- 8.5 Following further Officer Investigation, no other HMOs have been uncovered or removed from the list of HMOs in the area. Including the application property, the proposal would bring the percentage of HMOs within the area up to 3.07%. This would be lower than the 10% threshold above which an area is considered to be imbalanced and in conflict with Policy PCS20.



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

- 8.6 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.

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

Standard of accommodation

- 8.8 The application seeks, to use the property as a Sui Generis (larger HMO) which would, allow occupation by up to seven individuals. On the basis of the property being used as a seven person HMO, the room sizes have been assessed against the space standards within the HMO SPD as shown in **Table 1** below.

Room	Area Provided	Required Standard
Bedroom 1 (second floor)	11.77m ²	6.51m ²
Bedroom 2 (second floor)	11.08m ²	6.51m ²
Bedroom 3 (first floor)	13.08m ²	6.51m ²
Bedroom 4 (first floor)	10.24m ²	6.51m ²
Bedroom 5 (first floor)	12.95m ²	6.51m ²
Bedroom 6 (ground floor)	11.38m ²	6.51m ²
Bedroom 7 (ground floor)	10.55m ²	6.51m ²
Communal Kitchen/Dining area (ground floor)	28.87m ²	22.5m ² or 34m ²
Ensuite bathroom 1 (second floor)	2.75m ²	2.74m ²
Ensuite bathroom 2 (second floor)	2.78m ²	2.74m ²
Ensuite bathroom 3 (first floor)	3.02m ²	2.74m ²
Ensuite bathroom 4 (first floor)	2.82m ²	2.74m ²
Ensuite bathroom 5 (first floor)	2.86m ²	2.74m ²
Ensuite bathroom 6 (ground floor)	2.79m ²	2.74m ²
Ensuite bathroom 7 (ground floor)	2.81m ²	2.74m ²
WC (ground floor)	2.19m ²	1.17m ²

Table 1 - HMO SPD (Oct 2019) compliance

- 8.9 The bedrooms and communal living area would exceed the minimum size requirements for seven individuals, and the combination of ensuites and a shared WC would provide a suitable overall arrangement of sanitary facilities. Furthermore, all habitable rooms would have good access to natural light, and would have a suitable configuration/ layout, as well as size.
- 8.10 It is considered that all of the bedrooms and the communal living areas 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.

Impact on neighbouring living conditions

- 8.11 In terms of the impact on the living conditions of the adjoining occupiers, it is considered that the level of activity that could be associated with the use of any individual property either as a dwellinghouse (Class C3) which involves occupation by a single family, would be unlikely to be significantly different from the occupation of the property by 7 unrelated persons as a house in multiple occupation.

- 8.12 The HMO SPD is supported by an assessment of the need for, and supply of, shared housing in Portsmouth and of the impacts of high concentrations of HMOs on local communities. Paragraphs 9.1-9.10 discuss the negative impacts of HMO concentrations on local communities and points to the cumulative environmental effects of HMO concentrations. However, given that there is not an over-concentration of HMOs within the surrounding area, it is considered that the impact of one further HMO would not be significantly harmful.
- 8.13 Concerns have been raised in the representations regarding a potential increase in crime and anti-social behaviour as a result of the proposed change of use. However, the Council does not have any evidence to suggest that HMOs result in higher levels of crime or anti-social behaviour than a Class C3 dwellinghouse.
- 8.14 In terms of the impact on the living conditions of the adjoining occupiers, it is considered that the level of activity that could be associated with the use of any individual property as a dwellinghouse (Class C3), would not be significantly different from the occupation of the property by between 7 unrelated persons as a house in multiple occupation.
- 8.15 Whilst activity may be increased with the introduction of a HMO in this location, it would not result in an overconcentration of HMOs within the surrounding area, and therefore it is considered that the impact of one further HMO (bringing the total to two within a 50m radius) would not have any demonstrable adverse impact to wider amenity.
- 8.16 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.

Highways/Parking

- 8.17 The City Council's Parking Standards SPD sets the level of off-road parking facilities for new developments within the city and places a requirement of 2 off-road spaces for HMOs with four or more bedrooms. However, it should be noted that the expected level of parking demand for a Class C3 dwellinghouse with four or more bedrooms would also be 2 off-road spaces. In light of the same requirements set out within the Parking Standards SPD and the view that 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 owning a separate vehicle.
- 8.18 The Council's Adopted Parking Standards set out a requirement for 7 bedroom 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.

Waste

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

Appropriate Assessment in respect of Special Protection Area and Ramsar designated sites.

- 8.20 The application site is within 5.6 m of Portsmouth Harbour Special Protection Area (SPA) and will lead to a net increase in residential accommodation
- 8.21 The Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended) place duties on the Council to ensure that the proposed development would not have a likely significant effect on the interest features of the national and international site network of designated habitat sites (Portsmouth Harbour SPA, Ramsar and SAC sites), or otherwise affect protected habitats or species. The Portsmouth Plan's Greener Portsmouth policy (PCS13) sets out how the Council will ensure that the designated nature conservation sites along the Solent coast will continue to be protected.
- 8.22 There are two potential impacts resulting from this development: the first being potential recreational disturbance around the shorelines of the harbours, and the second from increased levels of nitrogen and phosphorus entering the Solent water environment.
- 8.23 Wading birds:
- 8.24 The Solent Recreation Mitigation Strategy (December 2017) was adopted by Portsmouth City Council on 1st April 2018 and replaces the Interim Solent Recreation Mitigation Strategy (December 2014) and the associated Solent Special Protection Areas Supplementary Planning Document (SPD) which was revoked by the City Council from 1st April 2018. The Strategy identifies that any development in the city which is residential in nature will result in a significant effect on the Special Protection Areas (SPAs) along the Solent coast. It sets out how development schemes can provide a mitigation package to remove this effect and enable the development to go forward in compliance with the Habitats Regulations. This development is likely to have an impact on the management of the SPA which would require mitigation.
- 8.25 Based on the methodology set out within the Strategy and taking into consideration the existing maisonette on the site an appropriate scale of mitigation for this development is £864, which will be secured through a legal agreement. With this mitigation, the LPA has concluded that the adverse effects arising from the proposal are wholly consistent with and inclusive of the effects detailed in the Solent Recreation Mitigation Strategy.
- 8.26 The LPA's assessment is that the application complies with this strategy and that it can therefore be concluded that there will be no adverse effects on the integrity of the designated sites identified above. The requirement for a payment to secure mitigation is both directly related to the development and is fairly and reasonably related in scale.
- 8.27 Nutrient Neutrality:
- 8.28 The Council's Updated Interim Nutrient-Neutral Mitigation Strategy expects applicants to explore their own mitigation solutions first. These solutions could be Option 1: 'off-setting' against the existing land use, or extant permission, or other land controlled by the applicant. Or it could be Option 2: mitigation measures such as Sustainable Urban Drainage Systems (SUDS), interception, or wetland creation. If, however, the applicant sets out to the Council that they have explored these options but are unable to provide mitigation by way of these, they may then request the purchase of 'credits' from the Council's Mitigation Credit Bank. These credits were first accrued by the Council's continuous programme of installation of water efficiencies into its own housing stock, and more recently by the purchase of credits on the open market in conjunction with the

Hampshire and Isle of Wight Wildlife Trust. These credits are available to new development.

- 8.29 The Council's current Mitigation Strategy sets out that the credit per new unit for non-major schemes will be charged in the order of £2,175 subject to calculator outputs. The credit costs required to mitigate against this scheme in its entirety are calculated to amount to £3,650. The applicant has provided a statement which confirms they are unable to provide nitrate mitigation via Option 1 or 2, and so would like to provide mitigation by using the Council's Mitigation Credit Bank. This is accepted and in line with the updated Strategy, the applicant has been asked to complete a s111 Agreement to confirm payment of the required mitigation. The recommendation below allows for circumstances whereby this Agreement is not complete at the time of the Committee resolution. It is also considered necessary to restrict the time implementation (condition) limit to one year, given the limited availability of Council mitigation 'credits'.
- 8.30 Natural England have been consulted on the application and have raised no objection subject to the above mitigation being secured. On this basis, the LPA as competent authority is satisfied that the development would not give rise to likely significant effects detrimental to the integrity of these designated habitat sites.

Community Infrastructure Levy (CIL)

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

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

- 8.32 The Council is required by the Human Rights Act 1998 to act in a way that is compatible with the European Convention on Human Rights. Virtually all planning applications engage the right to the enjoyment of property and the right to a fair hearing. Indeed, many applications engage the right to respect for private and family life where residential property is affected. Other convention rights may also be engaged. It is important to note that many convention rights are qualified rights, meaning that they are not absolute rights and must be balanced against competing interests as permitted by law. This report seeks such a balance.
- 8.33 Under section 149 of the Equality Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Further the Council must advance equality of opportunity and foster good relation between those who share a relevant protected characteristic and those who do not. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Having had due regard to the public sector equality duty as it applies to those with protected characteristics in the context of this application, it is not considered that the officer's recommendation would breach the Council's obligations under the Equality Act 2010.

Other Matters raised in the representations

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

- 8.35 Given the scale of the site and proposed change of use it is not considered that, the proposal would result in any significant impact upon water and sewage capacity; electricity and internet supplies or result in any significant increase in pollution or result in a detriment to the local air quality.
- 8.36 As demonstrated above the proposed change of use is acceptable in policy terms and there is no specific policy restricting a loss of family housing stock.
- 8.37 Building works have begun at the site in the form of stripping out the internal fixtures, it is considered that this work would not require Planning permission, any work undertaken in advance of a permission is done at the applicant's own risk.
- 8.38 Concerns have been raised over the accuracy of the Council's HMO Database; this data set has been reviewed by the Case Officer. No additional HMOs have been raised to the Case Officer to investigate by any of the submitted objections. It is therefore considered that the HMO dataset published above is considered to be accurate and correct.
- 8.39 Upkeep of the property is a private matter and not considered to be a relevant planning consideration.

9.0 CONCLUSION

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

RECOMMENDATION I - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to satisfactory completion of a s.111 Legal Agreement to secure the following:

- Mitigating the impact of the proposed development on the Solent Special Protection Areas, Special Areas of Conservation and Ramsar designated habitat sites (recreational disturbance and nutrient neutrality) by securing the payment of a financial contribution

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

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

Conditions

Time Limit:

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

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

Approved Plans:

- 2) Unless otherwise agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Plans and Elevations - PG.7093.22.4 Rev A and Location Plan - TQRQM22210115625725.

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 for 7 occupants, secure and weatherproof bicycle storage facilities for 4 bicycles shall be provided at the site and shall thereafter be retained for the parking of bicycles at all times.

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

External works:

- 4) Prior to first occupation of the property as a House in Multiple Occupation for 7 occupants, the single storey rear extension and rear dormer shall be completed in accordance with the submitted plans (Ref: Plans and Elevations - PG.7093.22.4 Rev A).

Reason: To ensure that an adequate standard of accommodation is provided in accordance with Policy PCS20.