

108 MILTON ROAD PORTSMOUTH PO3 6AR

CHANGE OF USE FROM DWELLINGHOUSE (CLASS C3) TO HOUSE IN MULTIPLE OCCUPATION FOR EIGHT PEOPLE (SUI GENERIS).

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=RO2ACNMOGCB00](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=RO2ACNMOGCB00)

**Application Submitted By:**

Mrs Carianne Wells  
Applecore PDM Ltd

**On behalf of:**

Mr C Reynolds

**RDD:** 9th January 2023

**LDD:** 14th March 2023

## 1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee due to a call-in request from Councillor Sanders.

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, semi-detached dwellinghouse (Class C3) located on the western side of Milton Road. It should be noted that planning permission was granted for mixed C3/C4 use in 2022 but the property has been vacant for some time and therefore this permission is not considered to have been implemented. However, the permission is still within the 3 year time limit for implementation and thus provides a fallback position. The dwellinghouse is served by bay windows to the front and has a side access leading to the rear yard. The existing layout comprises a lounge, kitchen/dining, WC and study at ground floor level; and 6 ensuite bedrooms across the first and second floors.

2.2 The application site falls within a predominantly residential area characterised by rows of two-storey terraced properties and the Rose in June Public House to the north. The commercial unit which adjoins the application site to the north (nos. 104-106 Milton Rd) is currently vacant, but permission is sought to convert it to 4 flats which has been agreed subject to a s111 Legal Agreement being completed (ref. 22/00383/FUL). There is a yard

to the rear (west), also in the applicant's ownership, with its vehicular access running along the south side of application property. That site is currently used for the storage of building waste and materials associated with the works ongoing at the two properties. The new Kingston Prison development is a close neighbour of the site to the south.

### 3.0 THE PROPOSAL

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

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

- Ground Floor - 2 bedrooms with ensuites, Communal area a WC with handbasin;
- First Floor - 3 bedrooms with ensuites; and
- Second Floor - 3 bedrooms with ensuites.



3.3 The Applicant has constructed dormers under permitted development and works to change the floors levels are internal and not considered to be development. Therefore, these works are not considered as part of this application. The installation of fencing to accommodate the rear yard can be undertaken under permitted development and cycle storage is shown on the plans.

## 4.0 PLANNING HISTORY

- 4.1 **21/01660/FUL** - *Change of use from dwelling house (Class C3) to dwelling house (Class C3) or House in Multiple Occupation (Class C4)*. The applicant has stated that this planning permission has not been implemented and as such, this application should be considered as a change of use from C3 rather than C3/C4. Upon a site visit, it is clear that the site is vacant, and Council Tax records indicate that the property has been empty since before permission was granted. It should be noted that the permission is still implementable and as such presents a fallback position of use as a C4 HMO with a broadly similar layout and 2 fewer bedrooms.

## 5.0 POLICY CONTEXT

### 5.1 Portsmouth Plan (2012)

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

### 5.3 Other Guidance

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

## 6.0 CONSULTATIONS

- 6.1 Private Sector Housing - Based on the layout and sizes provided with this application this property would require to be licenced under Part 2, Housing Act 2004. The property will need to be inspected by private sector housing to ensure it meets their licensing requirements.
- 6.2 Highways Engineer - no objection. The proposal would not have a material impact upon the function of local highway network. Local demand for parking on street regularly exceeds the space available particularly in the evenings and weekends. The Parking Standards SPD requires 2 off-road spaces for Sui Generis, HMOs with four or more bedrooms, the same as for a Class C3 dwellinghouse with four or more bedrooms. No parking survey information has been submitted to demonstrate on-street capacity if additional demand resulting from the development can be accommodated within a 200m walking distance. Therefore, there is potential for increased instances of residents driving around the area hunting for a parking

space, although is an issue of residential amenity, which should be given due weight. Request condition for secure cycle storage.

It was noted on the previously referred to application at 104-106 Milton Road (the property next door, which also has access to the rear yard) that the side access is not wide enough to safely accommodate vehicular access and the Highways Engineer would object to any formalised off-street parking due to this on highways safety grounds. As such, it is not considered that off street parking for this scheme is achievable. As explained above, there is no increased parking requirement from a C3 dwelling with over 4 bedrooms (the properties current use) or a C4 use with over 4 bedrooms (the fallback position) and as such, a lack of parking provision is not considered to be a defensible reason for refusal.

## **7.0 REPRESENTATIONS**

7.1 4 representations have been received objecting to the proposed development, including one from Councillor Sanders.

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

- a) Lack of car parking provision leading to an increase in traffic and exacerbation of existing on-street parking problems;
- b) Undue strain on local doctors surgeries and schools.
- c) The proposal goes against "regulations of the council itself, but also jeopardises the very rule of law we all strive by."

## **8.0 COMMENT**

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

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

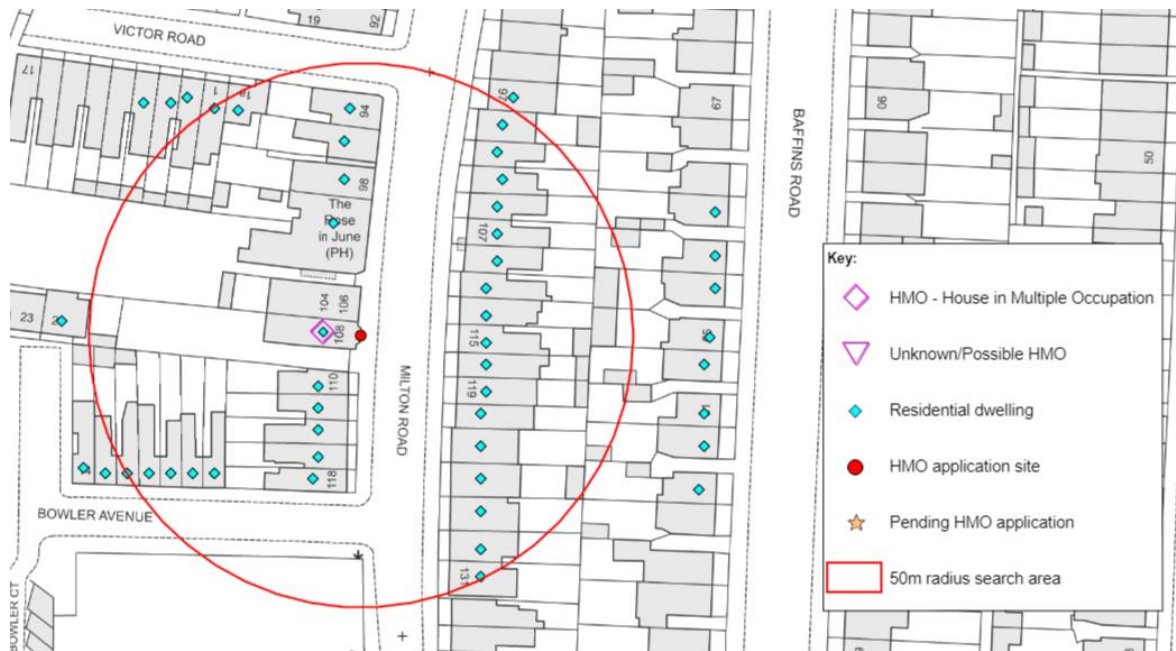
8.2 Principle of development

8.3 Permission is sought for the use of the property as a Sui Generis HMO for 8 persons. The property is currently considered to have a lawful use as a self-contained dwelling (Class C3), however, an extant permission for flexible C3/C4 use has already established the acceptability of a HMO in the area and presents a fallback position which should be given significant weight in the consideration.

8.4 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 52 properties within a 50-metre radius of the application site, there are no other confirmed HMOs, which is the same as when HMO use was first considered under the previous application.
- 8.6 Following further Officer Investigation, no additional HMOs have been uncovered by the Case Officer. The proposal would provide a percentage of HMOs within the area at 1.92%. This would be lower than the 10% threshold above which an area is considered to be imbalanced and in conflict with Policy PCS20.



- 8.7 A further policy strand introduced in July 2018, amended in October 2019, seeks to ensure that the amenity and standard of living environment of neighbours and local occupiers is protected. This is explained within Appendix 6 of the HMO SPD, which references the specific proximity of HMOs to adjacent dwellings and how these circumstances may give rise to a particular risk of harm to amenity and disturbance. These are where: the granting of the application would result in three or more HMOs adjacent to each other, or where the granting of the application would result in any residential property being 'sandwiched' between two HMOs. There is no conflict caused by this proposal with this guidance.
- 8.8 Having regard to the above, the proposal would comply with the aims and objectives of Policies PCS19 and PCS20 of the Portsmouth Plan (2012).

#### Five year Housing Land supply.

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

- I. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or
  - II. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 8.10 Currently, the Council can demonstrate 2.9 years supply of housing land. The starting point for determination of this application is therefore the fact that the authority cannot upation 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.

8.11 Standard of accommodation

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

Room	Area Provided	Required Standard
Bedroom 1	16.24m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 2	18.50m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 3	18.75m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 4	16.86m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 5	18.64m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 6	19.47m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 7	15.31m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 8	12.68m <sup>2</sup>	6.51m <sup>2</sup>
Communal Kitchen/Dining area (ground floor)	31.42m <sup>2</sup>	22.5m <sup>2</sup> (as all bedrooms exceed 10m <sup>2</sup> )
Ensuite bathroom 1	3.42m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 2	2.82m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 3	2.74m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 4	3.24m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 5	2.94m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 6	2.74m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 7	3.26m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 8	2.92m <sup>2</sup>	2.74m <sup>2</sup>
WC (ground floor)	1.53m <sup>2</sup>	1.17m <sup>2</sup>

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

- 8.13 All rooms comfortably exceed the required space standards. While the two parts of each of bedrooms 2 and 5 are separated by narrower spaces, they exceed the space standards greatly and provide a good standard of accommodation.
- 8.14 Impact on neighbouring living conditions
- 8.15 In terms of the impact on the living conditions of the adjoining occupiers, it is considered that the level of activity that could be associated with the use of any individual property as a dwellinghouse in Class C3, would be unlikely to be significantly different from the

occupation of the as a house in multiple occupation, and would not be discernible from the fallback position of 6 unrelated individuals.

- 8.16 The HMO SPD is supported by an assessment of the need for, and supply of, shared housing in Portsmouth and of the impacts of high concentrations of HMOs on local communities. Paragraphs 9.1-9.10 discuss the negative impacts of HMO concentrations on local communities and points to the cumulative environmental effects of HMO concentrations. However, given that there is not an over-concentration of HMOs within the surrounding area, it is considered that the impact of one HMO would not be significantly harmful. The principle of a HMO use at this dwellinghouse has already been established as acceptable.
- 8.20 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.
- 8.21 Highways/Parking
- 8.22 The City Council's Parking Standards SPD sets the level of off-road parking facilities for new developments within the city and places a requirement of 2 off-road spaces for Sui Generis HMOs with four or more bedrooms. However, it should be noted that the expected level of parking demand for a Class C3 dwellinghouse with four or more bedrooms would also be 2 off-road spaces, and these bedrooms would be achieved by permitted development without any planning control on parking. The proposal has no off-street parking, which is considered to be reasonable due to the previously discussed comments with regards to the side access way on a separate application.
- 8.23 As explained above, The Highways Officer nor Planning Officer raises an objection to the scheme on the grounds of a lack of off street parking. As the SPD requirement for parking is no greater for the proposal than a similarly sized Class C3 dwellinghouse or C4 HMO, it is considered that an objection on a lack of parking is either highway safety grounds, or car parking standards, could not be sustained on appeal. It should be noted that the property could be occupied by a large family and/or with adult children, each potentially owning a separate vehicle.
- 8.24 The Council's Adopted Parking Standards set out a requirement for 8 person HMOs to provide space for the storage of at least 4 bicycles. The property has a rear garden where secure cycle storage could be located. The requirement for cycle storage is recommended to be secured by condition.
- 8.25 Waste
- 8.26 The storage of refuse and recyclable materials can be accommodated in the rear garden due to the side access. 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. This can be secured through a s111 agreement, which the applicant has agreed to, and Natural England also.
- 8.31 Human Rights and the Public Sector Equality Duty ("PSED")

- 8.32 The Council is required by the Human Rights Act 1998 to act in a way that is compatible with the European Convention on Human Rights. Virtually all planning applications engage the right to the enjoyment of property and the right to a fair hearing. Indeed, many applications engage the right to respect for private and family life where residential property is affected. Other convention rights may also be engaged. It is important to note that many convention rights are qualified rights, meaning that they are not absolute rights and must be balanced against competing interests as permitted by law. This report seeks such a balance.
- 8.33 Under section 149 of the Equality Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Further the Council must advance equality of opportunity and foster good relation between those who share a relevant protected characteristic and those who do not. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Having had due regard to the public sector equality duty as it applies to those with protected characteristics in the context of this application, it is not considered that the officer's recommendation would breach the Council's obligations under the Equality Act 2010.
- 8.34 Other Matters raised in the representations
- 8.35 Concerns have been raised by neighbouring residents regarding the pressure the use would put on local services. However, having regard again to the existing lawful use of the property as a self-contained dwellinghouse, it is considered the use of the property would not have a significantly greater impact on local services than the existing use which could be occupied by a similar number of occupants. Concerns around impact on local schools is not considered to carry weight being that the occupiers of HMOs do not generally have children in their care and therefore there is likely to be less of an issue than if the property was a large family dwelling. There would not be a measurable difference on a strain on doctors' surgeries than if the property was occupied by a multi-person family.

## 9.0 CONCLUSION

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

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

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

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



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

**Conditions**

**Time Limit:**

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

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

**Approved Plans:**

- 2) Unless otherwise agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: PG5184.20.19 rev C, Section PG.5184.20

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.