

46 SHADWELL ROAD PORTSMOUTH PO2 9EJ

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

**Application Submitted By:**

Mrs Carianne Wells  
Applecore PDM Ltd

**On behalf of:**

Lyons  
Lyons Legacy Ltd

**RDD:** 13th April 2023

**LDD:** 8th June 2023

## 1.0 SUMMARY OF MAIN ISSUES

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

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

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

## 2.0 SITE AND SURROUNDINGS

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

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



**Figure 1 - Site Location Plan**

### **3.0 THE PROPOSAL**

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

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

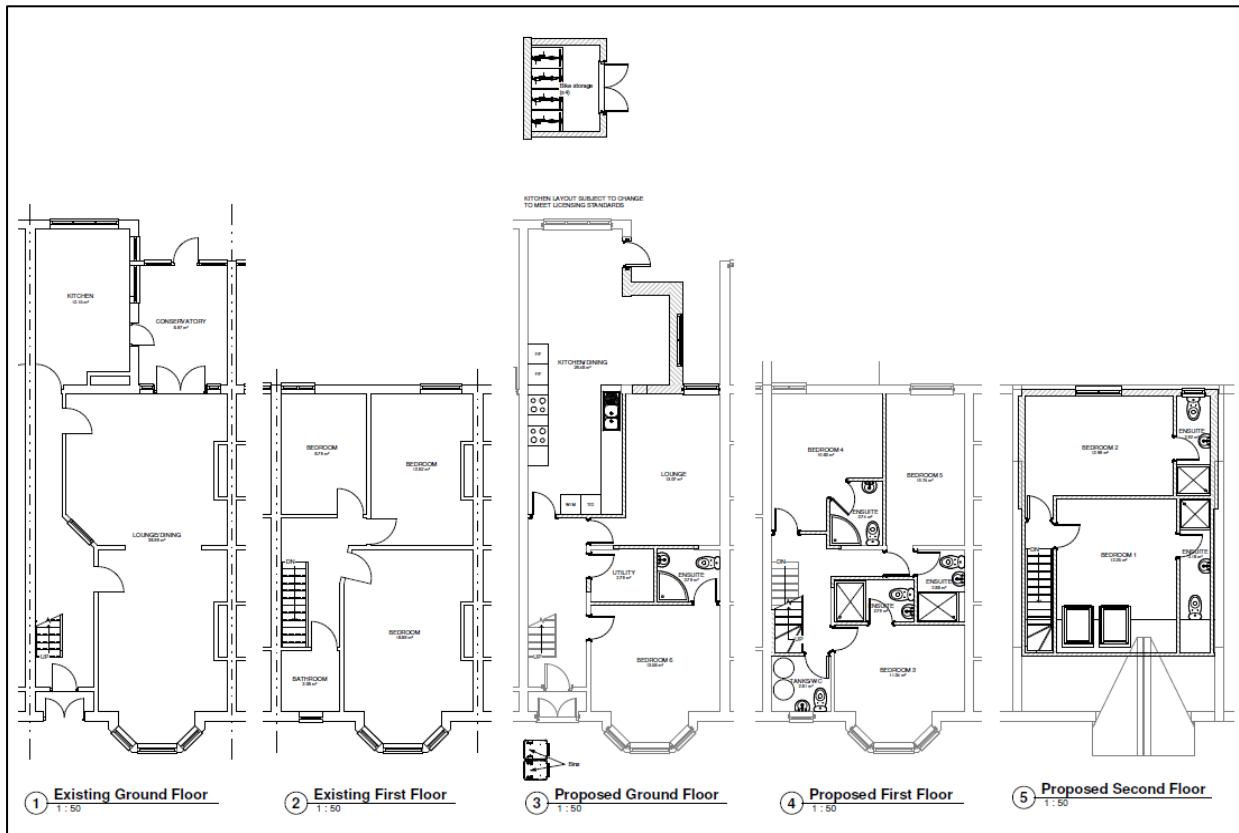
- Ground Floor - One bedroom (with a shower, toilet and handbasin ensuite), Kitchen/Dining room, Living room, and a utility room.

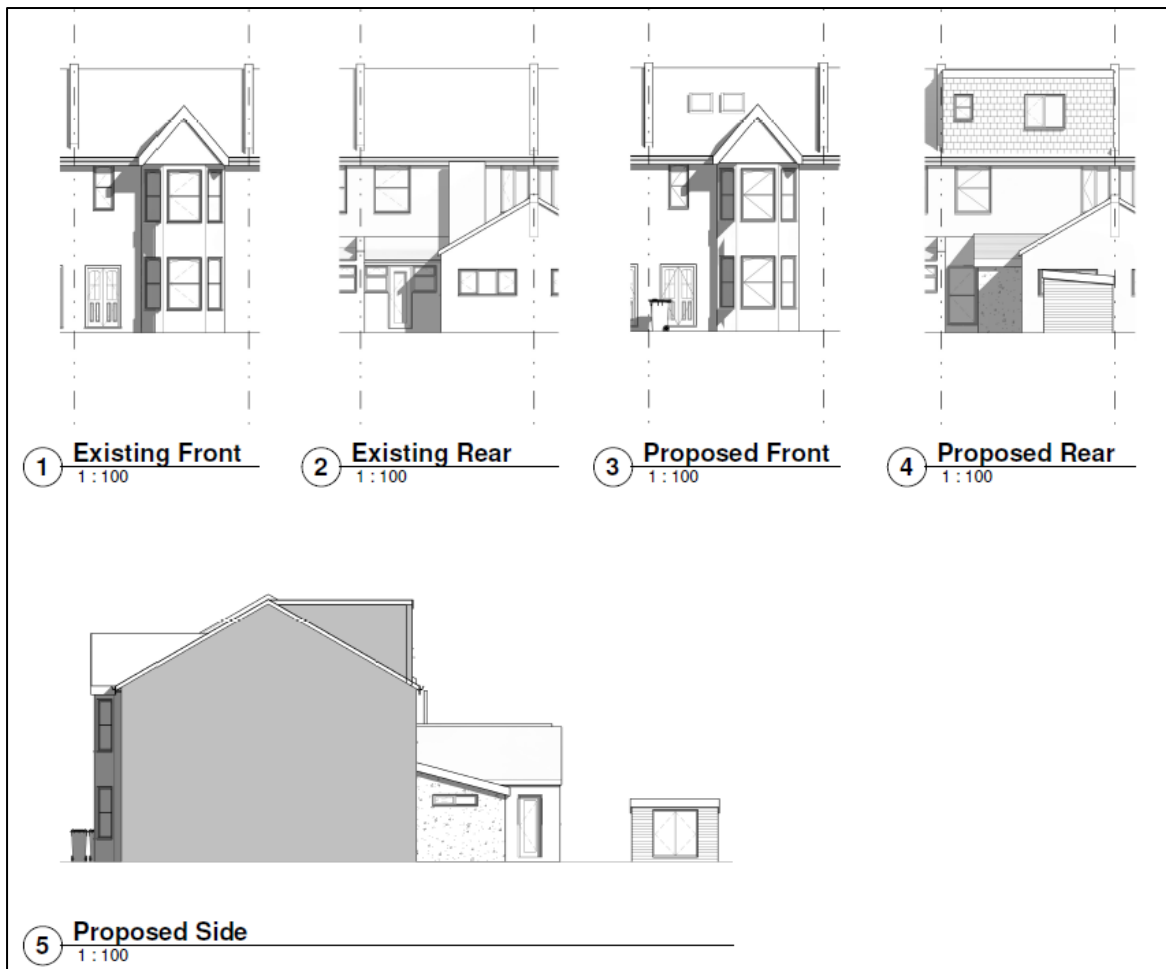
- First Floor - Three bedrooms (all with a shower, toilet and handbasin ensuite) and a shared WC with handbasin
- Second Floor - Two bedrooms (each with a shower, toilet and handbasin ensuite).

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

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

**Figure 2 - Proposed plans**





**Figure 3 - Proposed Elevations**

## 4.0 PLANNING HISTORY

4.1 None.

## 5.0 POLICY CONTEXT

5.1 Portsmouth Plan (2012)

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

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

5.3 Other Guidance

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

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

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

## 6.0 CONSULTATIONS

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

## 7.0 REPRESENTATIONS

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

## 8.0 COMMENT

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

- 8.4 Policy PCS20 of the Portsmouth Plan states that applications for change of use to a HMO will only be permitted where the community is not already imbalanced by a concentration of such uses, or where the development would not create an imbalance. The adopted Houses in Multiple Occupation SPD (as amended October 2019), sets out how Policy PCS20 will be implemented and details how the City Council will apply this policy to all planning applications for HMO uses. The SPD states that a community will be considered to be imbalanced where more than 10% of residential properties within the area surrounding the application site (within a 50m radius) are already in HMO use.
- 8.5 Based on the information held by the City Council, of the 65 properties within a 50-metre radius of the application site, there is 1 confirmed HMO (Class C4) at 51 Shadwell Road, and 1 unknown/possible HMO at 34 Shadwell Road as shown in **Figure 4** below. Whilst this is the best available data to the Local Planning Authority (LPA) and is updated on a regular basis, there are occasions where properties have been included or omitted from the database in error or have lawfully changed their use away from Class C4 HMOs without requiring the express permission of the LPA.
- 8.6 Following further Officer Investigation, no additional HMOs have been uncovered by the Case Officer. Including the application property, the confirmed HMO at 51 Shadwell Road, and the possible HMO at 34 Shadwell Road, the proposal would bring the percentage of HMOs within the area up to 4.61%. This would be lower than the 10% threshold above which an area is considered to be imbalanced and in conflict with Policy PCS20.



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

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

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

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

8.9 Standard of accommodation

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

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

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

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

8.14 Impact on neighbouring living conditions

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

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

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



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

8.25 Waste

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

8.27 Impact on Special Protection Areas

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

8.29 Community Infrastructure Levy (CIL)

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

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

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

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

8.34 Other Matters raised in the representations.

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

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

## **9.0 CONCLUSION**

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

### **RECOMMENDATION                      Conditional Permission**

#### **Conditions**

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

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

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

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

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

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

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

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

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

#### **Informatives:**

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

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

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

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

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

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

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

Phone Number: 023 9284 1659