

172 CHICHESTER ROAD PORTSMOUTH PO2 0AH

**CHANGE OF USE FROM DWELLING HOUSE (CLASS C3) TO 7 PERSON HOUSE IN MULTIPLE OCCUPANCY (SUI GENERIS)**

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=RQ2WQ8MOH3E00](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=RQ2WQ8MOH3E00)

**Application Submitted By:**

Mrs Carianne Wells  
Applecore PDM Ltd

**On behalf of:**

Wells  
Solent Quarters Ltd

**RDD:** 15th February 2023

**LDD:** 12th April 2023

## **1.0 SUMMARY OF MAIN ISSUES**

- 1.1 This application is brought before Planning Committee due to a total of 16 objections from 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;
  - Standard of accommodation;
  - Relevant planning history providing fallback position
  - Parking;
  - Waste;
  - Amenity impacts upon neighbouring residents;
  - Impact upon the Solent Protection Areas; and
  - Any other raised matters.

## **2.0 SITE AND SURROUNDINGS**

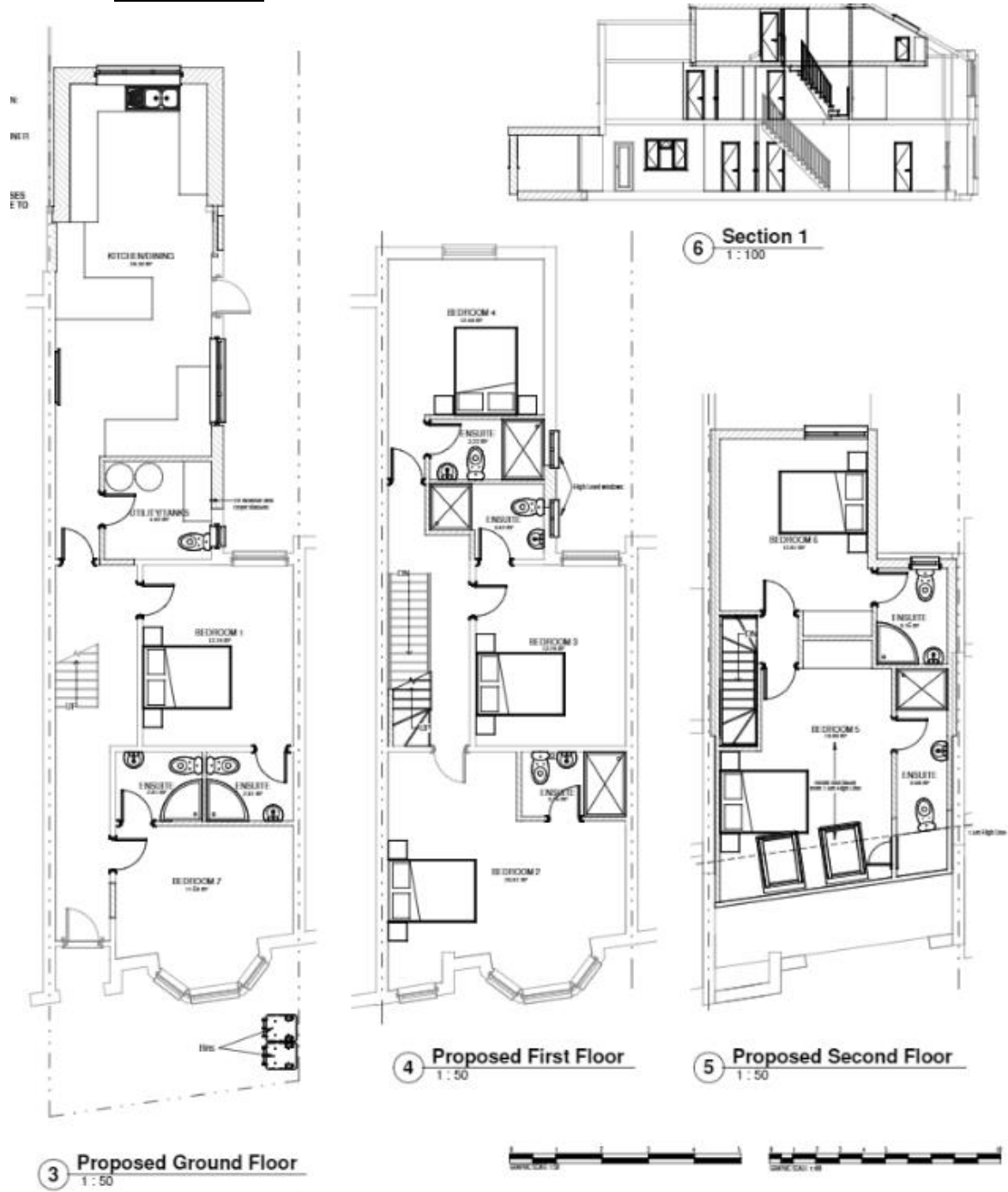
- 2.1 The application relates to a two-storey, mid-terraced dwellinghouse (Class C3) located on the southern side of Chichester Road. It should be noted that planning permission was granted for mixed C3/C4 earlier this year but this permission is not considered to have been implemented. The extant permission is 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 reasonably large front forecourt and rear garden (which has a rear access alleyway which serves as good access to the existing rear bike store). The existing layout comprises a lounge, kitchen and dining room at ground floor level, and 3 bedrooms and a bathroom on the first floor.
- 2.2 The application site falls within a residential area characterised by rows of two-storey terraced properties, with various shops, pubs and other amenities nearby. There are bus stops for both directions directly outside of the property.

### 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 seven people.

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

- Ground Floor - 2 bedrooms with ensuites, Communal kitchen-dining area, and WC (in utility and tank room to contain washer and dryer);
- First Floor - 3 bedrooms with ensuites; and
- Second Floor - 2 bedrooms with ensuites.



- 3.3 The Applicant has stated that works to extend the property are to be undertaken under permitted development (without the need to apply for planning permission). These works include a single storey rear extension and rear dormer and are not included in the application. They should not be considered as part of the application but would be necessary to meet the space standards required for the proposed use. Should the applicant wish, these works could, and likely would, go ahead with or without consent for the change of use being considered under this application. It is suggested that it would be prudent to impose a pre-occupation condition should the committee be minded to grant permission requiring that the permitted development works take place prior to the property's occupation as a HMO for 7 persons.

#### **4.0 PLANNING HISTORY**

- 4.1 **23/00130/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 there is no evidence to suggest it has (being that no license has been applied for as yet), this application should be considered as a change of use from C3 rather than from C4. It should be noted that the extant permission is still implementable and as such presents a fallback position of use as a C4 HMO with a broadly similar layout and 1 fewer bedroom.

#### **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 licensing requirements.

**6.2 Highways Engineer** - no objection. Highlights that there would be no increase in parking requirement (2 spaces) from the fallback position of being able to implement the C4 permission. However, the LHA also acknowledge that in theory an increase in the amount of bedrooms could result in an increase in the level of cars at the property. This may, in turn, result in increased instances of drivers searching for parking spaces, but this would be a matter of residential amenity to consider.

## **7.0 REPRESENTATIONS**

7.1 16 objections receive, including one from Councillor Swann, summarised as:

- a) Lack of car parking provision leading to an increase in traffic and exacerbation of existing on-street parking problems;
- b) Strain on water supply and sewers
- c) There are already too many HMOs in the area
- d) There is a backlog of applications that could result in HMOs being waved through inadvertently. Now that this has been raised, any that are permitted will be considered to be deliberate breaches of policy.
- e) Neighbours would be overlooked due to the rear dormer
- f) The HMO use will negatively affect the value of the neighbours houses
- g) There could be 14 people living in the HMO
- h) Destruction of a family home
- i) Approving the application would be "a callous numbers game for local council instead of genuine action to provide for" residents
- j) The proposed use provides "crammed in sardine box rooms"
- k) People already have to park illegally due to a lack of parking spaces, which is penalised by the Council through Parking Tickets
- l) A HMO is not needed in this area
- m) Due to the installation of a "second floor", the objector could install a roof terrace, buy storage containers and use them as apartments
- n) Increase pollution as Portsmouth is an island
- o) The rear extension will be built over sewer access.
- p) A 2 or 3 storey extension will block out light to neighbouring properties
- q) Parking is strained by users of the Church
- r) The alleyway is private
- s) An objection will be made in court
- t) The "only true winners are HMO developers"
- u) Strains on doctors and schools
- v) Rubbish on the pavement already in the area
- w) Objector works nightshifts and therefore will not be able to work due to the proposed building works
- x) The proposal is causing stress and anxiety and was thrust upon the objector without consultation. The objector will now have to sell their property at a huge loss
- y) Building works and party wall agreements are "a faff".

## **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

### Five year Housing Land supply.

8.3 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.

8.4 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 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.

### HMO Policy

8.5 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), 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.

8.6 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.

8.7 It should be noted that HMO use has already been granted at this property and therefore there would be no further increase in the numbers of HMOs should this application be granted. Therefore, it would not be sustainable at appeal, or reasonable in a costs defence, to refuse this application under Policy PCS20 (Mixed and Balanced Communities).

- 8.8 For reference, the HMO use of 172 Chichester Road results in 3 HMO uses out of a total of 64 residential properties. This produces a HMO percentage of 4.68% which, regardless of the fallback position, falls well below the 10% threshold allowed by PCS20.



- 8.9 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.

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

8.11 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	12.74m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 2	20.81m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 3	12.74m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 4	12.49m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 5	13.8m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 6	12.81m <sup>2</sup>	6.51m <sup>2</sup>

Bedroom 7	11.68m <sup>2</sup>	6.51m <sup>2</sup>
Utility/WC	4.92 m <sup>2</sup>	1.17m <sup>2</sup>
Communal Kitchen/Dining area (ground floor)	26.2m <sup>2</sup>	22.5m <sup>2</sup> (as all bedrooms exceed 10m <sup>2</sup> )
Ensuite bathroom 1	2.81m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 2	3.16m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 3	3.42m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 4	3.22m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 5	3.88m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 6	3.16m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 7	2.81m <sup>2</sup>	2.74m <sup>2</sup>

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

- 8.13 All rooms comfortably exceed the required space standards and the proposal is considered to provide a good standard of living for future occupiers.
- 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, nor would the increase in 1 occupant when considered against the fallback position. 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 three bedrooms would be 1.5 off-road spaces, a difference of just 0.5 spaces. The proposal has no off-street parking, which is no change from the current use, or the fallback position.
- 8.23 As explained above, neither the Highways Officer nor Planning Officer highlights a serious issue with the scheme on the grounds of a lack of off street parking. As the SPD requirement for parking is not materially different for the proposal than a similarly sized Class C3 dwellinghouse or C4 HMO (2 spaces) , 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.

- 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 an existing outbuilding which is to be used as a bike shed which can be accessed via the rear alleyway. The requirement for this outbuilding to be converted for and retained as secure and weatherproof cycle storage for 4 bicycles is recommended to be secured by condition.
- 8.25 Waste
- 8.26 The storage of refuse and recyclable materials can be accommodated in the ample front forecourt. 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 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, 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 Members will be able to identify that the vast number of issues raised in the objections are not material planning issues, raise issues that do not involve the application in question or refer to works that are simply not proposed to occur. These should therefore be disregarded. For summary and completeness, these points, as listed above are: b, d, f, h, l, k, m, o, p, q, r, s, t, v, w, x and y. These concerns, where founded, will be covered by other Council Departments such as Parking Enforcement, HMO Licensing/Private Sector Housing, Building Control and Waste. Issues can be dealt with as and when they arise by those departments, and in any cases where illegal activity is involved, as has



been suggested will be the case by some objectors, neighbours should contact the Police.

- 8.36 Many objections centre around parking issues. This matter is discussed above in greater length. In summary, a lack of parking could not be defended at appeal due to policy having the same parking requirement for the fallback position of C4 use which can be implemented, and the current C3 use (with some minor internal/PD works).
- 8.37 Many comments raise concerns over the impact of the PD works. These works are not included in this application and are beyond the control of the Local Planning Authority. These works could be implemented without the need to apply for permission under the current C3 use or the allowed C4 use.
- 8.38 Some comments object due to the apparent poor quality of living for future occupiers and the high number of HMOs already in the area. Both of these objections are considered to be unfounded because the proposal is found to comply with both policies PCS20 and PCS23 of the Portsmouth Plan.
- 8.39 One objector raises concerns that 14 people will occupy the property. The application is for 7 persons and this would be monitored and controlled through the licensing regime. However, members may consider imposing an occupancy condition (although this is not considered necessary).

## **9.0 CONCLUSION**

- 9.1 Having regard to all material planning considerations, 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) Receipt of 'no objection' from Natural England concerning the SPA Mitigation, and;
- (b) 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.

**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: 172ChichesterRd.22.1,

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.

**PD Works**

- 4) Prior to the occupation of the property as a HMO for 7 persons, the single storey rear extension and rear dormer proposed to be constructed under permitted development allowances shall be completed.

Reason: In order to ensure that the property meets the required space standards and therefore provides a good standard of living in accordance with Policy PCS23 of the Portsmouth Plan.