

2 Mayfield Road Portsmouth PO2 0RW

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

<https://publicaccess.portsmouth.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RTEUSOMOIB000>

**Application Submitted By:**

Mrs Carianne Wells  
Applecore PDM Ltd

**On behalf of:**

Mr Reynolds  
CER Property Ltd

**RDD:** 20<sup>th</sup> April 2023

**LDD:** 15<sup>th</sup> June 2023

## 1.0 SUMMARY OF MAIN ISSUES

- 1.1 Cllr Daniel Wemyss and Cllr Strudwick have requested the application be heard at Planning Committee over concerns surrounding the sewage system being congested and the impact on parking provision.
- 1.2 This application has attracted a total of 34 objections from local residents.
- 1.3 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; and
  - Any other raised matters.

## 2.0 SITE AND SURROUNDINGS

- 2.1 The application relates to a two-storey, end-terraced dwellinghouse (Class C3) located on the southern side of Mayfield Road, with London Road situated to the west. The existing dwellinghouse is served by bay windows to the front over two floors and has a small forecourt and canopy at the front of the property. The dwelling currently has a moderate, linear rear garden which shares a boundary with the gardens of properties on Thurbern Road. The existing layout comprises a lounge/dining, w/c , wet room and kitchen/dining at ground floor and 3 bedrooms and a bathroom at first floor.
- 2.2 The application site falls within a residential area characterised by rows of two-storey terraced properties with many shops and amenities nearby. There are bus stops for both directions in close proximity on London Road.

### 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, kitchen/dining area and WC;
- First Floor - 3 bedrooms with ensuites and a tank room; 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. These works include a single storey rear extension and rear roof dormers, and are not included in the application. They should not be considered as part of the application but may 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 **A\*30979/AA** - Conversion to form 2 flats - Conditional Approval - 24/07/2003

### 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 this property would require to be licenced under Part 2, Housing Act 2004. It will need to be inspected by private sector housing to ensure it meets their licensing requirements.

6.2 Highways Engineer - no objection subject to the imposition of condition relating to position of cycle storage. The response detailed that Mayfield Road is a residential road with parking accommodated through unrestricted on street parking with some properties having the benefit of off street parking. The demand for parking on street appears high.

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 upon the function of local highway network.

The Parking Standards SPD places a requirement of 2 off-road spaces for Sui Generis HMOs with four or more bedrooms. The expected level of parking demand for a Class C3 dwellinghouse with three bedrooms would be for 1.5 off-road spaces, a difference of 0.5 spaces.

No parking survey information has been submitted to demonstrate on street capacity if additional demand resulting from the development needs to be accommodated within a 200m walking distance of the site. Therefore, there is the potential for increased instances of residents driving around the area hunting for a parking space, although this is an issue of residential amenity.

## 7.0 REPRESENTATIONS

7.1 34 representations have been received objecting to the proposed development, including one from Councillor Wemyss.

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. School, Dance School, & other businesses already operate without designated parking
- b) Strain on water supply and sewers
- c) There are already too many HMOs in the area
- d) Residents of this type of accommodation rarely assimilate into the wider area
- e) The HMO use will negatively affect the value of the neighbours houses
- f) The road is also not suitable for HGVs (signposted on street), already presenting difficulties for building work to be undertaken, without causing major disruption
- g) Increased amount of rubbish produced by a HMO.
- h) if approved, it could lead to possible further planning being granted, for continued expansions, with no end to how far it could go, impacting the affluent area.
- i) The introduction of a HMO runs the risk of increased anti-social behaviour in the area, with unwanted associations to drugs, and alcohol, supported by there being no mention of the target market stipulated for the HMO property.
- j) The Council really need to get an updated register of all the (illegal) HMOs in Portsmouth
- k) These properties pay the same amount of Council Tax as the local residents but create more issues, rubbish, costs to the community, police call outs, noise pollution, etc. than most of the residential properties of single-dwelling
- l) The Applicant states this property is his address, but that is also the case for 15 Shadwell Road and 16 North End Avenue. 15 Shadwell Road is in fact a registered HMO owned by this developer, is this a ploy or incompetence;
- m) There is unfilled student accommodation in the City, would be a much better to house single people there rather than turning family sized properties into HMOs.
- n) Once a developer given the 'green light', concerned they immediately submit an application for extensions, in order to increase their rental income
- o) It is also fair to say that the site is not maintained to a high standard externally, and spoils the ambience of our neighbourhood.
- p) The structure of the property is old, and not built for purpose of HMO.
- q) There is risk of the property falling into disrepair from high demand, and additional construction.
- r) there are already quite a number of people living in this property, and I am assuming that there is some sort of rental agreement between them and the purchaser.
- s) I object to the scale of this development. The applicant is developing the property beyond that allowed by permitted development. The background for this is based on post war rear extension already using these up before the applicant additional extensions. This is based on the block plan provided and the neighbouring properties rear extents.
- t) I have repeatedly objected to HMO based on the over intensive use of houses that are so old they are not built to any standards. It puts too much strain on the community and it crams too many people into too small a space to give an acceptable standard of living.

## **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; and

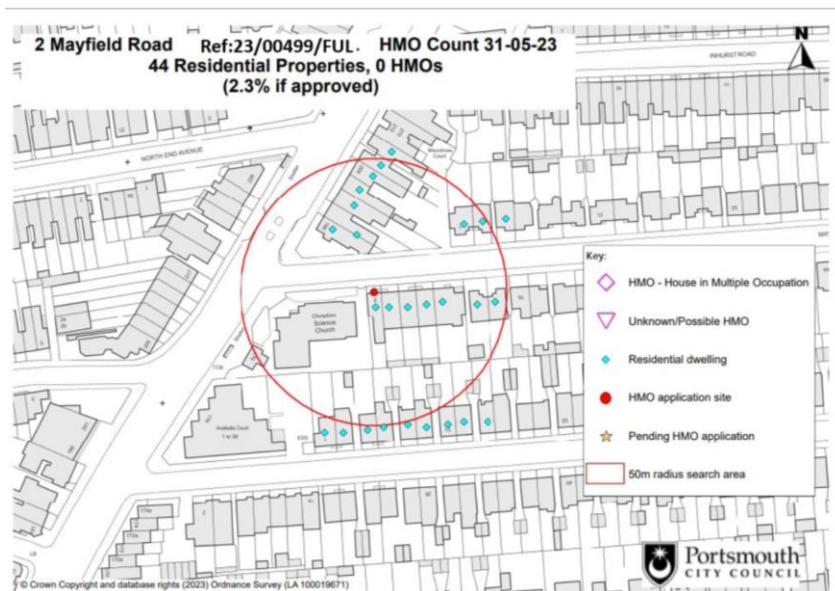
- Any other raised matters

## 8.2 Principle of development

8.3 Permission is sought for the use of the property as a Sui Generis HMO for 7 persons. The property is currently considered to have a lawful use as a self-contained dwelling (Class C3).

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.

8.6 For reference, the HMO use of 2 Mayfield Road results in 1 HMO uses out of a total of 44 residential properties. This produces a HMO percentage of 2.3% which, falls well below the 10% threshold allowed by 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 demonstrate a five year supply of housing. This development would provide greater occupation of the building, so make an 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 7 persons and proposes the following room sizes, as shown in **Table 1** below.

Room	Area Provided	Required Standard
Bedroom 1	13.19m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 2	11.77m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 3	18.02m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 4	11.79m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 5	11.70m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 6	13.90m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 7	13.79m <sup>2</sup>	6.51m <sup>2</sup>
Communal Kitchen/Dining area (ground floor)	31.45m <sup>2</sup>	22.5m <sup>2</sup> (as all bedrooms exceed 10m <sup>2</sup> )
Ensuite bathroom 1	3.13m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 2	3.32m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 3	3.19m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 4	3.31m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 5	2.93m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 6	2.87m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 7	3.41m <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. Even after the construction of the single storey rear extension under Permitted Development, a

reasonable sized garden is provided. While this is not required by policy, it is a clear positive when considering the amenity of 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.

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 occupants.

8.17 Given the realistic increase in number of occupants as a material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.

8.18 Highways/Parking

8.19 The City Council's Parking Standards SPD has a difference of 0.5 car parking spaces between the existing and proposed use. The proposal has no off-street parking, which is no change from the current use. The difference of 0.5 spaces is not a quantum that warrants a reason for refusal, given the proximity to public transport and other facilities. 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.

8.20 The Parking Standards set out a requirement for 7 person HMOs to provide space for the storage of at least 4 bicycles. A covered cycle store is proposed to the rear of the property, to accommodate 4 bicycles. This may be secured by condition.

8.21 Impact on Special Protection Areas

8.22 As there is a measurable increase in occupancy from an assumed 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 s.111 agreement.

8.23 Waste

8.24 The storage of refuse and recyclable materials can be accommodated in the front forecourt. It is not considered necessary to require details of formalised waste storage.

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

8.26 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.

- 8.27 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.
- 8.29 Other Matters raised in the representations but not yet addressed in this report
- 8.29 Members will be able to identify that the majority of issues raised in the objections are not material planning issues. For summary and completeness, these points, these concerns, where founded, will be covered by other Council Departments such as 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.
- 8.30 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. Also, comments that the developer plans to further extend the property have been received. If the applicant wishes to further extend the property they will need to go through the relevant planning process which will require any application to send neighbour notifications and go through the assessment process. Until that time it can not be given consideration.
- 8.31 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. As per the map detailed above, this is the only HMO in the area currently.
- 8.32 One objector raises concerns regarding the type and number of people staying in 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.
- 8.33 A representation received details that due to the age of the property involved, they are not built to any standards. In terms of the overall safety of the property, this is primarily a Building Standards issue which will be required to be gone through. In terms of Planning, all rooms are larger than the sizes required by the National Space Standards, some significantly so. It is therefore considered that the point raised is not accurate.



- 8.34 Comments detailing there are more appropriate uses for properties, rather than HMO's, have also been received. Other objections detail that HMO'S should be directed to other areas or that unfilled student accommodation should be used rather than creating further HMO's. Ultimately, it is considered and has been demonstrated that there is not an oversupply of HMO's in this location, it is considered this type of use in a predominantly residential area is appropriate and that every application has to be considered on its own merits considering the property type, surrounding area, currently property uses etc. In this case it has been demonstrated there would be a neutral planning impact on the immediate locale as a result of this permission.

## **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 , received 20<sup>th</sup> April 2023: " LOCATION PLAN 1-1250 TQRQM23053152137399" , " SITE PLAN 1500 TQRQM23110094347981"

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 roof alterations 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.