

1 OLIVER ROAD SOUTHSEA PO4 9BY

**CHANGE OF USE FROM A CLASS C3 DWELLINGHOUSE TO A 8-BED/8-PERSON HOUSE IN MULTIPLE OCCUPATION; CONSTRUCTION OF SINGLE STOREY REAR EXTENSION FOLLOWING REMOVAL OF EXISTING AND GARAGE AND RECONSTRUCTION OF BOUNDARY WALL (RESUBMISSION OF 23/00099/FUL)**

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=RUWNK9MOIUD00](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=RUWNK9MOIUD00)

**Application Submitted By:**

Mr Willment  
incollective.works

**On behalf of:**

Sattari

**RDD:** 22nd May 2023

**LDD:** 28th July 2023

## 1.0 SUMMARY OF MAIN ISSUES

- 1.1 This application is brought before Planning Committee due to a total of 36 objections from local residents and due to a call-in from Councillor Vernon-Jackson.
- 1.2 The main issues for consideration in the determination of the application are considered to be as follows:
- The principle of development;
  - The standard of accommodation;
  - Design;
  - Impact upon amenity neighbouring residents;
  - Parking;
  - Waste;
  - 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 (to eaves height), corner dwellinghouse (Class C3) located on the southern side of Oliver Road and the western side of Hellyer Road. The dwelling features a rear garage and vehicular access with dropped kerb along Hellyer Road. The building as existing has front and rear dormer windows providing an extra roof storey, and has its front door to Hellyer Road. The property features a small side garden. The existing layout features four bedrooms.
- 2.2 The application site falls within a residential area characterised by rows of two-storey terraced properties. To the south of the site is Highland Road, which features a number of shops, services and public transport routes.



Figure 1 Location Plan

### 3.0 THE PROPOSAL

- 3.1 Planning permission is sought for the change of use of the property from Class C3 (Dwellinghouse) into an 8-bedroom/8-person House in Multiple Occupation (Sui Generis). In addition to the change of use class, a single storey extension is proposed (following the demolition of the existing extension and garage) and the reconstruction of the existing brick boundary wall fronting Hellyer Road, to be 1.8m tall.
- 3.2 The proposed internal accommodation, as shown in the below proposed floorplans comprises the following:
- Ground Floor - 3 bedrooms with ensuites, Communal kitchen-dining area;
  - First Floor - 3 bedrooms with ensuites; and
  - Second Floor - 2 bedrooms with ensuites.
- 3.3 In addition to the works detailed within the description of development (rear extension, and new boundary wall), the Applicant also intends to enlarge an existing rear dormer under permitted development (without the need to apply for planning permission). This aspect of the proposal is not considered as part of the application but would be necessary to meet the space standards required for the proposed number of occupiers. 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 8 persons.



Figure 2 Proposed Elevations



Figure 3 Proposed boundary wall

#### 4.0 PLANNING HISTORY

- 4.1 23/00099/FUL - Change of use from dwellinghouse (Class C3) to purposes falling within dwellinghouse (Class C3) or house in multiple occupation (Class C4). Withdrawn (12.05.2023). This application was withdrawn due to Officer advice that other works would need to be completed in order to provide an adequate standard of accommodation. In this instance being the demolition and reconstruction of the single storey rear element and the rebuilding of the boundary wall. It was considered by Officers that this work would require formal Planning Permission and as such the applicant was advised to withdraw the application and re-submit with all the works under a single application for clarity.

#### 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. Based on the submitted floor plans, there are no adverse comments from Private Sector Housing in relation to the proposed size and layout of the property. The property will need to be inspected by private sector housing to ensure it meets licensing requirements.

6.2 Highways Engineer - No objection. Portsmouth City Councils Parking SPD gives the expected level of vehicle and cycle parking within new residential developments. The requirement for a 4-bedroom dwelling is 2 vehicle spaces and 4 cycle spaces, this compared with the requirement for an 8-bedroom HMO is 2 spaces and 4 cycle spaces. Consequently, the parking and cycle requirement remains unchanged. A cycle store is provided to the rear of the property for 4 cycles, suggest a condition to secure the store.

6.3 Contaminated Land Team - No objection, subject to an informative.

## 7.0 REPRESENTATIONS

7.1 35 objections received, including one from Councillor Vernon-Jackson, summarised as:

- a) Lack of car parking provision leading to an increase in traffic and exacerbation of existing on-street parking problems;
- b) Overdevelopment of the site and loss of neighbours amenity;
- c) Lack of external space;
- d) Impact on the character of the area;
- e) Noise and disturbance - anti-social behaviour;
- f) Existing state of upkeep of the property being poor;
- g) Loss of a family home;
- h) Set a precedent for future development;
- i) Building works going on at the site;
- j) Previous rejection for a 6-bedroom HMO on the site;
- k) Lacks adequate living space;
- l) Out of character for the area;
- m) Strain on public services;
- n) Loss of garage;
- o) Concerns over the rooms being given separate addresses and given more parking spaces;
- p) Noise from the communal area;
- q) Impact from parking in accumulation with flats approved at Lougars Gym and on Highland Road; and
- r) Lack of natural light to the rooms.

## 8.0 COMMENT

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

- The principle of Development;
- The standard of accommodation;
- Design;
- 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 Five-year Housing Land supply

8.4 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.

8.5 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.

8.6 HMO Policy

8.7 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).

8.8 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.

- 8.9 Based on the information held by the City Council, of the 70 properties within a 50-metre radius of the application site, there are only 2 HMOs at 21 Hatfield Road and 30 Hellyer Road as shown in **Figure 4** below. It is noted that the site itself is already listed on the Council List of possible HMOs. 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.
- 8.10 Following further Officer Investigation, no additional HMOs have been uncovered by the Case Officer. Including the application property, the proposal would bring the percentage of HMOs within the area up to 4.28%. 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 HMO layout

- 8.11 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.

- 8.12 Having regard to the above, the proposal would comply with the aims and objectives of Policies PCS19 and PCS20 of the Portsmouth Plan (2012).
- 8.13 Standard of accommodation
- 8.14 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	12.99m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 2	10.33m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 3	10m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 4	12.95m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 5	10.5m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 6	10.33m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 7	10.01m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 8	17.27m <sup>2</sup>	6.51m <sup>2</sup>
Communal Kitchen/Dining area (ground floor)	40.5m <sup>2</sup>	22.5m <sup>2</sup> (as all bedrooms exceed 10m <sup>2</sup> )
Ensuite bathroom 1	2.74m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 2	2.74m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 3	2.74m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 4	2.74m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 5	2.74m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 6	2.74m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 7	2.74m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 8	2.74m <sup>2</sup>	2.74m <sup>2</sup>

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

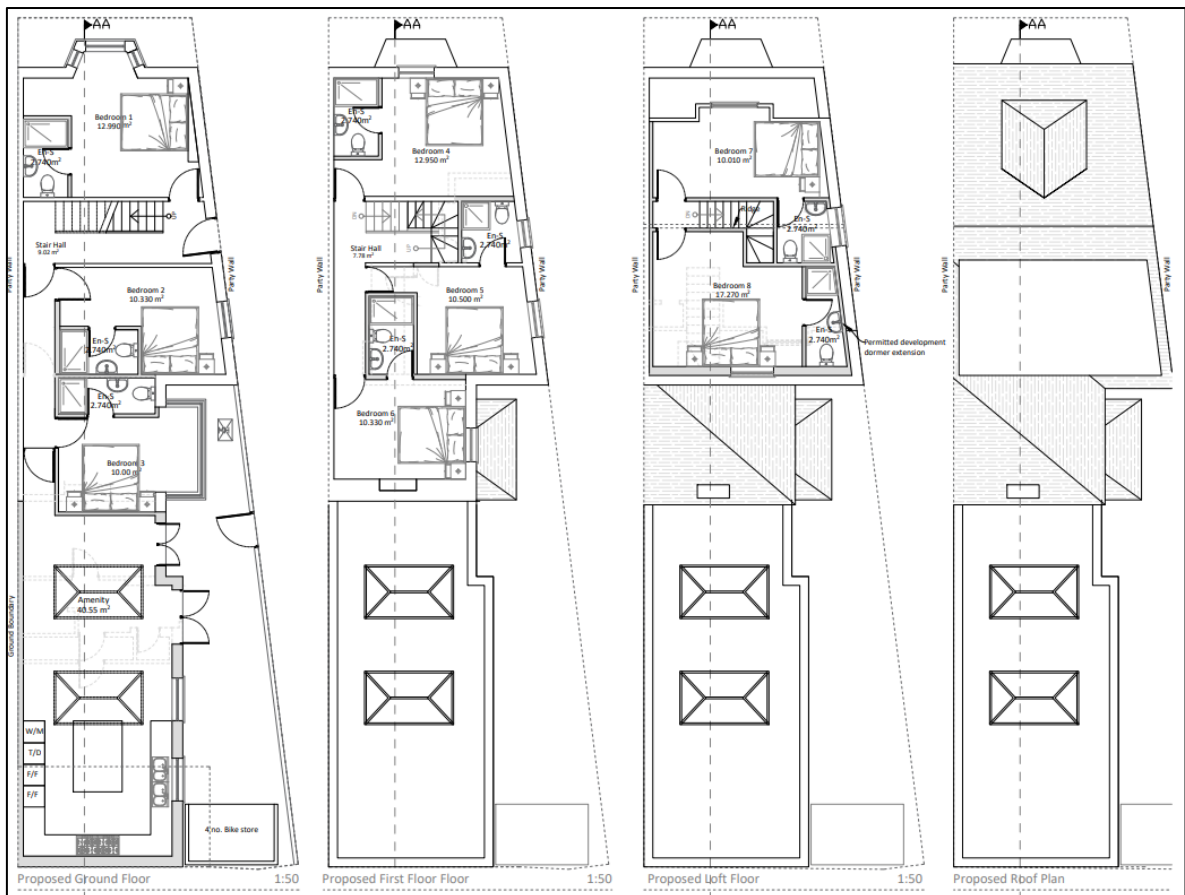


Figure 5 Proposed Floorplans

- 8.15 All rooms comfortably exceed the required space standards and the proposal is considered to provide a good standard of living for future occupiers, with a good standard of light and outlook.
- 8.16 Objection concerns have been raised about a lack of external amenity space, it should be noted that there is no requirement for such a space within the HMO SPD. Further the property benefits from a side/rear garden, with a width of 13.7m and a depth of between 0.85m to 3.2m in depth, totalling a useable area (excluding bike storage shed) of approximately 25m. Part of this space would be taken up by bike storage and possibly bin storage, however the space is still considered to be useable and provide opportunity for sitting out.
- 8.17 Design
- 8.18 Policy PCS23 of the Portsmouth Plan echoes the principles of good design set out within the National Planning Policy Framework and requires all new development be well designed and respect the character of the city. The following will be sought in new development, appropriate scale, density, layout, appearance, and materials in relation to the particular context.
- 8.19 The proposed single storey extension would be built over the footprint of the existing rear element and garage. The footprint of the built form is therefore unchanged. The only alteration relates to the height. The majority of the extension is to a lower overall height than the existing garage and built form. The extension would feature a simple flat roofed design and given the condition of the existing garage is considered to be an overall improvement over the existing.



- 8.20 The replacement boundary wall to Hellyer Road wall would also be a solid brick wall and remove the existing vehicular access and is considered to be an acceptable alteration from a design perspective.
- 8.21 The proposed external alterations would therefore be considered to accord with Policy PCS23 of the Portsmouth Plan (2012).
- 8.22 Impact on neighbouring living conditions
- 8.23 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.
- 8.24 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 an HMO use at this dwellinghouse has already been established as acceptable earlier in this report.
- 8.25 The proposed external alterations would not be considered to impact upon the amenity of the residents to the north, east or south. While there would be a change in part of the height of the single storey element when compared with the existing, given the height of the roof proposed and the reduction in height along the rest of the boundary, it is considered that the amenity impact of the lower built form would be acceptable to the western neighbour (No.3 Oliver Road).
- 8.26 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.
- 8.27 Highways/Parking
- 8.28 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 bedrooms would be 2 off-road spaces, no difference in parking requirement. The proposal would remove one garage parking space, however it would also reinstate this space in front of this access on-street, for use by the rest of the road. It is also noted that the street is controlled via parking permits, after discussing the matter with the Highways Officer, as the property would retain one postal address it would only be possible to gain 2 parking permits for the occupants (as per the existing dwelling house).
- 8.29 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, 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.

- 8.30 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 plans include a proposed bike store accessed via the side access. The requirement for storage for 4 bicycles is recommended to be secured by condition.
- 8.31 Waste
- 8.32 The storage of refuse and recyclable materials can be accommodated in the front forecourt or rear/side garden. It is not considered necessary to require details of formalised waste storage.
- 8.33 Impact on Special Protection Areas
- 8.34 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 and/or condition.
- 8.35 Human Rights and the Public Sector Equality Duty ("PSED")
- 8.36 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.
- 8.37 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.
- 8.38 Other Matters raised in the representations
- 8.39 Concerns have been raised over the condition of the existing property. If granted permission, there is a greater likelihood that the property would be maintained.
- 8.40 The loss of the use as a family home is not considered to be defensible in policy, the change of use is considered to be acceptable in policy as established above.
- 8.41 It is not considered that the application in and of itself would result in an undue strain on public services or infrastructure.
- 8.42 The garage would be removed as part of this application, it has no protection under planning for its retention.
- 8.43 The other matters raised by residents have been covered within the report.

## 9.0 CONCLUSION

- 9.1 Having regard to all material planning considerations, 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:

Proposed Floorplans - 115 - P/ 04/RevA;  
Proposed Elevations and Section - 115 - P/ 05/RevA;  
Proposed Elevations - 115 - P/ 06/RevA; and  
Street Elevations - 15 - P/ 07/RevA.

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 8 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.

### **Materials**

- 5) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match, in type, colour and texture those on the existing building.

Reason: In the interests of visual amenity in accordance with policy PCS23 of the Portsmouth Plan.