

7 MAGDALA ROAD PORTSMOUTH PO6 2QG**23/00571/FUL | Change of use from a Class C3 dwellinghouse to a 7-bed/7-person House in Multiple Occupation | 7 Magdala Road Portsmouth PO6 2QG****Application Submitted By:**

Mrs Carianne Wells
Applecore PDM Ltd

On behalf of:

Mr Appleton

RDD: 11th May 2023

LDD: 6th July 2023

1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee due to a total of 14 objections and 1 neutral comment 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 site comprises of a two-storey mid-terraced dwelling located to the northern side of Magdala Road, just to the east of its junction with High Street and north of Magdala Road's junction with Dorking Crescent, as shown in **Figure 1** below. The property is set back from the highway by a small front garden and has a good-sized rear garden amenity space which also benefits from a rear pedestrian access. The existing layout comprises a lounge, kitchen, dining room, utility room and shower room at ground floor level, and 3 bedrooms and a bathroom on the first floor.

2.2 The surrounding area is predominantly residential in character with a mix of terraced, semi-detached and detached properties, and purpose build apartment blocks. To the west of the application site is the High Street, made up of a mixture of commercial uses and facilities.



Figure 1 Location plan

3.0 THE PROPOSAL

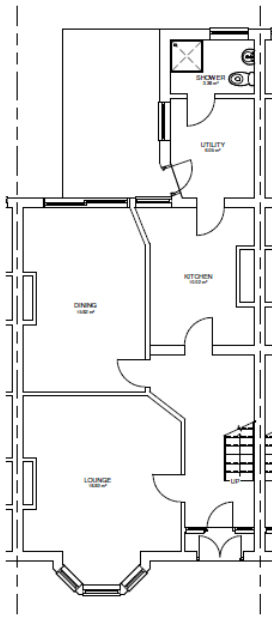
3.1 Planning permission is sought for the Change of use from dwellinghouse (Class C3) to House in Multiple Occupation for seven people. All bedrooms will be for single occupancy.

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

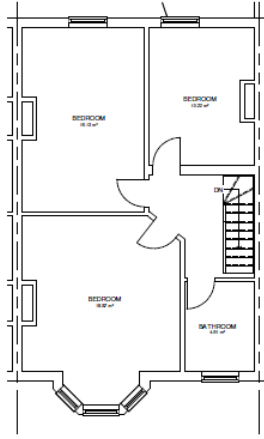
- Ground Floor - Two bedrooms (both with ensuite shower, toilet and handbasin), communal Kitchen/Dining room, and a shared WC (with handbasin).
- First Floor - Three bedrooms (all with a shower, toilet and handbasin ensuite), and a Tanks/Laundry utility room
- Second Floor - Two bedrooms (both with a shower, toilet and handbasin ensuite).

3.3 The Applicant has stated that works to extend the property's roof are to be undertaken under permitted development (without the need to apply for planning permission). There would also be a larger single storey rear extension which has been considered under Ref: 23/00019/GPDC and it was concluded that prior approval was not required. These two extensions are not included in this 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

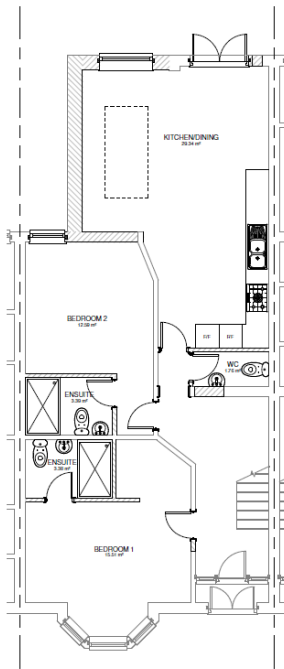
with or without consent for the change of use being considered under this application. It is suggested that it would be prudent to impose a pre-occupation condition should the committee be minded to grant permission requiring that the permitted development works take place prior to the property's occupation as a HMO for 7 persons.



1 Existing Ground Floor
1:50

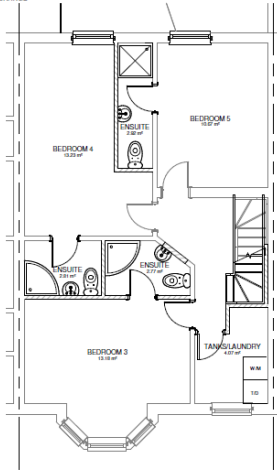


2 Existing First Floor
1:50

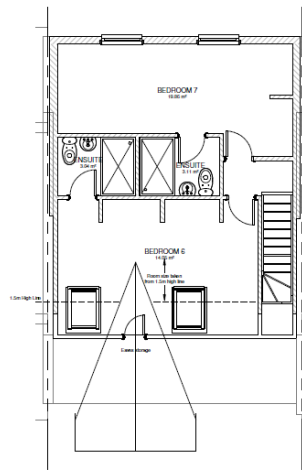


1 Proposed GF
1:50

KITCHEN FOR ILLUSTRATIVE PURPOSES ONLY - MAY BE SUBJECT TO CHANGE TO COMPLY WITH LICENSING REQUIREMENTS



2 Proposed FF
1:50



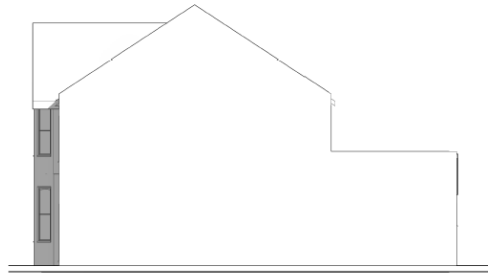
3 Proposed SF
1:50

ALL ROOMS FOR SINGLE USE.





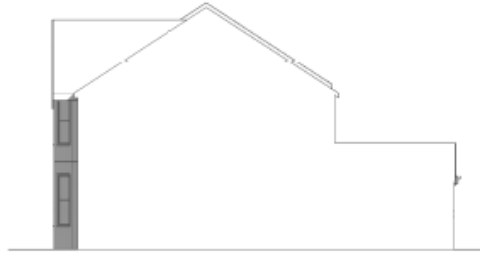
3 Existing Front
1:100



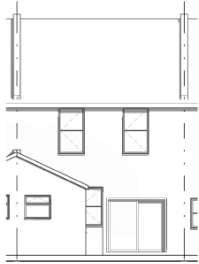
4 Existing Side
1:100



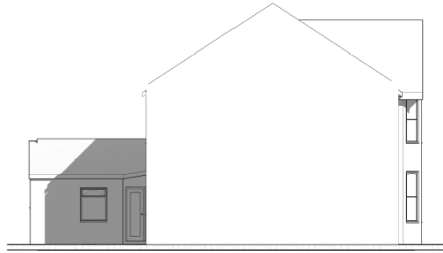
4 Proposed Front
1:100



5 Proposed Side
1:100



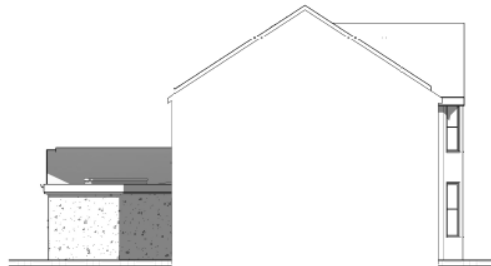
5 Existing Rear
1:100



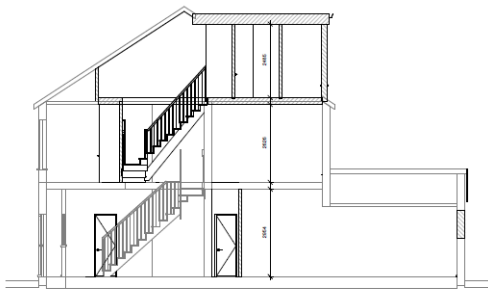
6 Existing Side
1:100



6 Proposed Rear
1:100



7 Proposed Side
1:100



1 Section
1:50

Figure 2 Existing and Proposed Floor Plans & Elevations

4.0 PLANNING HISTORY

- 4.1 - Construction of single storey rear extension that extends 4.5m from the rear wall, with a maximum height of 3m and a height of 2.8m to the eaves - Prior Approval not Required - 19.04.2023.
- 4.2 23/00800/FUL - Change of use from dwellinghouse (Class C3) to purposes falling within Class C3 (dwellinghouse) or Class C4 (House in Multiple Occupation) - Pending Consideration.

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 there are no adverse comments to be made by Private Sector Housing. This property would require to be licenced under Part 2, Housing Act 2004.
- 6.2 Highways Engineer - No objection. Highlights that would be no increase in parking requirement (2 spaces) as the requirement for a 3-bedroom dwelling compared with the requirement for a 7-bedroom HMO requirement remains unchanged.
- 6.3 Natural England - No objection subject to securing appropriate mitigation.

7.0 REPRESENTATIONS

- 7.1 14 objections received and 1 neutral comment summarised as:
- a) An HMO is out of keeping with the area

- b) Lack of car parking provision leading to an increase in traffic and exacerbation of existing on-street parking problems
- c) Loss of family home from the existing housing stock
- d) Poor standard of living for future residents, room sizes and layout not appropriate for 7 persons
- e) Undue strain on local services and infrastructure, including the sewage, drainage and Doctors/Dentists
- f) Concerns about impact on community
- g) Anti-social behaviour
- h) Increase in noise and waste.
- i) Disruption from building works (noise and safety concerns)
- j) Negative impact on property prices
- k) Rear dormer will have a harmful impact on privacy.
- l) Area already overcrowded/densely populated.
- m) Prior approval application for rear extension did not mention change of use to HMO
- n) Site notice not displayed correctly.
- o) Potential harm to bat habitat.

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:

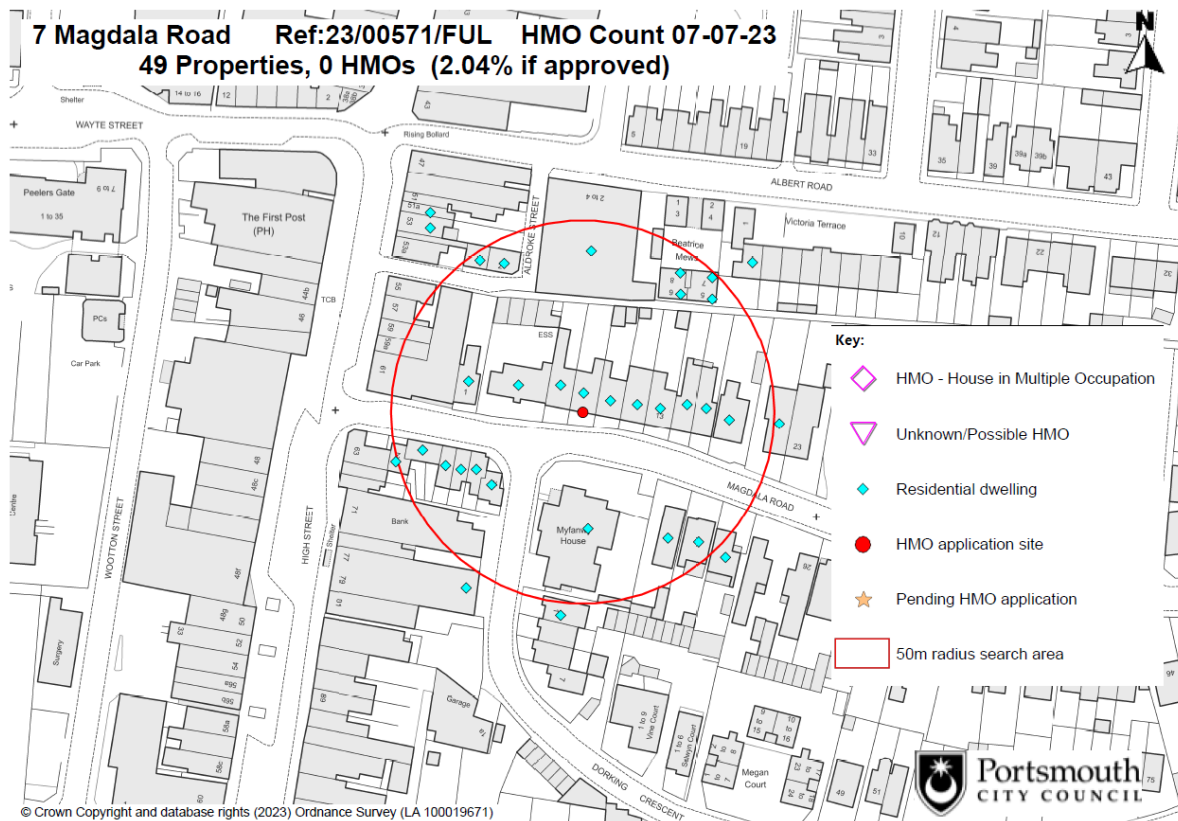
- I. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or
- II. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies 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), 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'. Larger HMOs are typically defined as having more than 6 unrelated people sharing amenities and are not classified by the Use Classes Order. For planning purposes such HMOs are regarded as having a "Sui Generis" use (meaning that they do not fit comfortably into a standard use class)
- 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.
- 8.8 Based on information held by the City Council, of the 49 properties within a 50 metre radius of the application site, none have been identified as an HMO in lawful use and no further properties identified as unknown/possible HMOs. Therefore, the existing number of HMOs equates to 0% of the properties within the search area. The addition of the application property would result in 2.04% of properties being an HMO within the 50m radius, which, falls below the 10% threshold limit above which an area is considered to be imbalanced.



- 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 7 persons and proposes the following room sizes, as shown in **Table 1** below.

Room	Area Provided	Required Standard
Bedroom 1 (Single use)	15.51m ²	6.51m ²
Bedroom 2 (Single use)	12.59m ²	6.51m ²
Bedroom 3 (Single use)	13.18m ²	6.51m ²
Bedroom 4 (Single use)	13.23m ²	6.51m ²
Bedroom 5 (Single use)	10.67m ²	6.51m ²
Bedroom 6 (Single use)	14.05m ²	6.51m ²
Bedroom 7 (Single use)	19.86m ²	6.51m ²
Shared WC	1.76m ²	1.17m ²
Communal Kitchen/Dining area (ground floor)	29.34m ²	22.5m ² (as all bedrooms exceed 10m ²)
Ensuite bathroom for bedroom 1	3.38m ²	2.74m ²
Ensuite bathroom for bedroom 2	3.39m ²	2.74m ²
Ensuite bathroom for bedroom 3	2.77m ²	2.74m ²
Ensuite bathroom for bedroom 4	2.81m ²	2.74m ²
Ensuite bathroom for bedroom 5	2.92m ²	2.74m ²
Ensuite bathroom for bedroom 6	3.04m ²	2.74m ²
Ensuite bathroom for bedroom 7	3.11m ²	2.74m ²
Tanks/laundry room	4.07m ²	Not Required

Table 1 - HMO SPD (Oct 2019) compliance

- 8.13 As is shown in the table above, the proposal results in an internal layout that meets a straightforward appraisal against the Council's adopted space standards except for combined living/dining room, which may expect 34m². However the HMO SPD, at para 2.6, advises that more detailed guidance, beyond these headline requirements should be referred to within the Council's standards for Houses in Multiple Occupation Guidance (September 2018). This more detailed guidance applies lower minimum requirements (of 22.5m²) for combined living accommodation in circumstances where all bedrooms are at least 10m² and the accommodation is otherwise acceptable as communal space. On the basis of the information supplied with the application this detailed guidance is considered applicable and the resulting layout is considered to result in a satisfactory standard of living environment.

All habitable rooms have good access to natural light and in addition, a rear garden also provides external amenity space for the residents.

All of the 7 bedrooms would have ensuite facilities, and an additional shared WC would be present at ground floor level, providing acceptable sanitary facilities for occupants and visitors. The accommodation therefore would provide a suitable overall arrangement of sanitary facilities.

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 property by up to 7 unrelated persons as an HMO.

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.

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. Additionally, 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 proposal has no off-street parking, which is no change from the current use.

8.23 As explained above, neither the Highways Officer nor Planning Officer highlights an 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. In addition, it is considered that the site is within an area of good accessibility and located within an acceptable walking distance of the various amenities and services, and bus routes.

8.24 The Council's Adopted Parking Standards set out a requirement for C4 HMO's to provide space for the storage of at least 4 bicycles. The property has a rear garden where a proposed secure cycle storage is shown to be located. Access to the cycle storage can

be achieved through the separate rear access to the garden. 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, to be accommodated in the suitable front forecourt area. An objection on waste grounds would not form a sustainable reason for refusal and 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.

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 residents of the road regarding the pressure the additional occupants would put on local services and drainage/sewerage. However, having regard to the existing lawful C3 use of the property which allows the occupation of a family of unrestricted size, it is considered the use of the property would not have a significantly greater impact on local services and drainage/sewerage than if the property was occupied by a single family of seven.

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 Comments raised 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 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.
- 8.40 Sometimes the presence of bats can appear unexpectedly while carrying out building works, and it is illegal to disturb a bat roost. In the unlikely event that a bat is found should permission be granted, works should stop immediately and Natural England informed: <https://www.bats.org.uk/advice/im-working-on-a-building-with-bats/ive-found-a-bat-during-works>
- 8.41 An objection comment stated that the Site notice was not displayed correctly. Two site notices were displayed near the application site, both in an appropriate manner.
- 8.42 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 Notwithstanding the objections received, and for the reasons set out in this report, it is not considered that these can be reasonably sustained in planning terms. 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 Conditional Permission

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

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

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 drawing:

- Block Plan Proposed - Dwg No. TQRQM23073122217668.
- Sui Gen Plan - Dwg No. 7mag · 23 · 4 REV A
- Section - Dwg No. 7mag · 23 · 5
- 4 Cycle Storage Shed - Dwg No. 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.

Water Efficiency

- 5) The proposal hereby permitted shall not (unless otherwise agreed in writing with the LPA) be occupied until written documentary evidence has been submitted to and approved in writing by the Local Planning Authority demonstrating that the development has achieved a maximum water use of 110 litres per person per day as defined in paragraph 36(2)b of the Building Regulations (2010) (as amended). Such evidence shall be in the form of a post construction water efficiency calculator.

Reason: To ensure that the development complies with PCS15 of the Portsmouth Plan and does not exceed the scope of Nitrate Mitigation Credits purchased.