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170 CHICHESTER ROAD PORTSMOUTH PO2 0AH

**CHANGE OF USE FROM DWELLINGHOUSE (CLASS C3) TO PURPOSES FALLING WITHIN CLASSES C3 (DWELLINGHOUSE) OR C4 (HOUSE IN MULTIPLE OCCUPANCY)**

**LINK TO DOCUMENTS:** [HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=RYI1X0MOK8200](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=RYI1X0MOK8200)

**Application Submitted By:**

Mrs Carianne Wells  
Applecore PDM Ltd

**On behalf of:**

Wadam

**RDD:** 31st July 2023

**LDD:** 2nd October 2023

**1 SUMMARY OF MAIN ISSUES**

- 1.1 This application is brought before Planning Committee due to nine letters of objection including an objection from Cllr Benedict Swan.
- 1.2 The main issues for consideration in the determination of the application are as follows:
  - The principle of Development including compliance with policy;
  - The standard of accommodation;
  - Parking;
  - Amenity impacts upon neighbouring residents;
  - Impact upon the Solent Protection Areas; and
  - Any other raised matters

**2 SITE AND SURROUNDINGS**

- 2.1 This application relates to a two-storey mid-terrace property situated on the southern side of Chichester Road. The accommodation comprises of; a living/ dining room, kitchen, utility and wc at the ground floor level and three double bedrooms and a bathroom at first floor level.

**3 THE PROPOSAL**

- 3.1 This application seeks planning permission for the flexible use of the property for purposes falling within Class C3 (dwellinghouse) to purposes falling within dwellinghouse (Class C3) or house in multiple occupation (Class C4).
- 3.2 The interchange between Class C3 and Class C4 would normally be permitted development within the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). However, on 1st November 2011 an Article 4 Direction relating to HMOs came into force. As such, planning permission is now required in order to interchange between the uses of a Class C3 dwellinghouse and a Class C4 HMO where between three and six unrelated people share at least a kitchen and/or a bathroom.

- 3.3 The Applicant intends to construct a small rear extension, a dormer extension within the main roof and roof alterations permitted development, as shown below in the drawing below, to facilitate the enlargement of the property before undertaking the proposed development. The extensions and alterations can be completed under permitted development regardless of whether the property is in Class C3 or C4 use.
- 3.4 This change in occupancy will also involve repurposing of some rooms.
- 3.5 Plans:



Figure 1: Proposed floor and elevation plans

- 3.6 Planning History  
None

## 4 POLICY CONTEXT

- 4.1 In addition to the aims and objectives of the National Planning Policy Framework (2021), the relevant policies within the Portsmouth Plan (2012) would include: PCS17 (Transport), PCS20 (Houses in Multiple Occupation and PCS23 (Design and Conservation).
- 4.2 Guidance for the assessment of applications that is relevant to the application includes The Parking Standards and Transport Assessments Supplementary Planning Document (2014), The Technical Housing Standards - nationally described space standards (2015), The Solent Recreation Mitigation Strategy (2017), The Interim Nutrient Neutral Mitigation Strategy (2019), and The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD').

## **5 CONSULTATIONS**

### **5.1 Private Sector Housing**

5.2 Based on the layout and sizes provided with this application this property would require to be licenced under Part 2, Housing Act 2004.

5.3 The new standards require a room to have usable space that is measured from the floor to ceiling height of 2.3m for over at least 75% of the room. It is unclear from the drawing dimensions if the usable space of bedroom 1 is suitable and meets the required standards.

5.4 Based on the plan, the Study is an inner room of the kitchen area. This is a significant fire risk which will need to be addressed.

5.5 The property will require HMO mandatory licensing.

### **5.6 REPRESENTATIONS**

Nine letters of representation received objecting on the following summarised grounds:

- If granted will exceed the planning 10% rule on HMOs within a 50m radius of other HMOs
- Council HMO data list out of date
- Would result in two HMOs next to each other and sandwiching residents
- Loss of large family homes
- Parking issues
- Pressure on local amenities and facilities

#### Non-planning considerations

- Devaluation of neighbouring properties

## **6.0 COMMENT**

6.1 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;
- Impact upon the Solent Protection Areas; and
- Any other raised matters.

### **7.0 Principle**

7.1 The HMO SPD has been published to provide a tool for addressing the recognised impacts that HMO's may have in Portsmouth, most notably in relation to the residential amenity, both for occupiers of HMO's and neighbouring properties and housing mix of certain communities. Two of the key matters of principles explained in the HMO SPD are the assessment of housing mix to ensure balanced communities and the application of minimum room sizes, reflecting those in force as part of the private sector housing licencing regime, to ensure an appropriate living environment for future residents.

7.2 In this case the application site is in lawful use as a C3 dwellinghouse. The HMO SPD suggests a threshold of 10% of dwellings in any area of 50m radius as maximum proportion of HMO dwellings to C3, single household, dwellings. It is noted that letters of objection from local residents have identified a number of known HMOs in Chichester Road and the wider area and several properties have also been identified as

potentially being HMOs. These have been investigated and none are unknown HMOs and consequently within the relevant 50m radius area the LPA is satisfied that there are currently 3 no. HMOs out of 62 properties as shown in figure 3 below. This proposal, adding one more HMO, would change the current figure of 4.8%, to 6.5% and therefore remains below the 10% threshold. Local residents have also suggested that there may be some dwellings in the relevant area being used as HMOs without the relevant permission/licence. Preliminary assessment has not confirmed this but further update will be provided at the Committee. However while 2 such properties have been suggested to be 'unregistered' HMOs, even if the further investigation does confirm they are currently being used as HMOs, and that they may lawful remain as such, that will only increase the total resultant number of HMOs within the relevant search area to 6, 9.7% of the dwellings, and therefore still an acceptable mix within this area. The HMO SPD also described a number of circumstances where new HMOs are considered not desirable, such as where they 'sandwich' single household dwellings between HMOs or create a 3 adjacent HMOs next to each other. As this proposal would not result any of these scenarios, these considerations are not brought into effect.

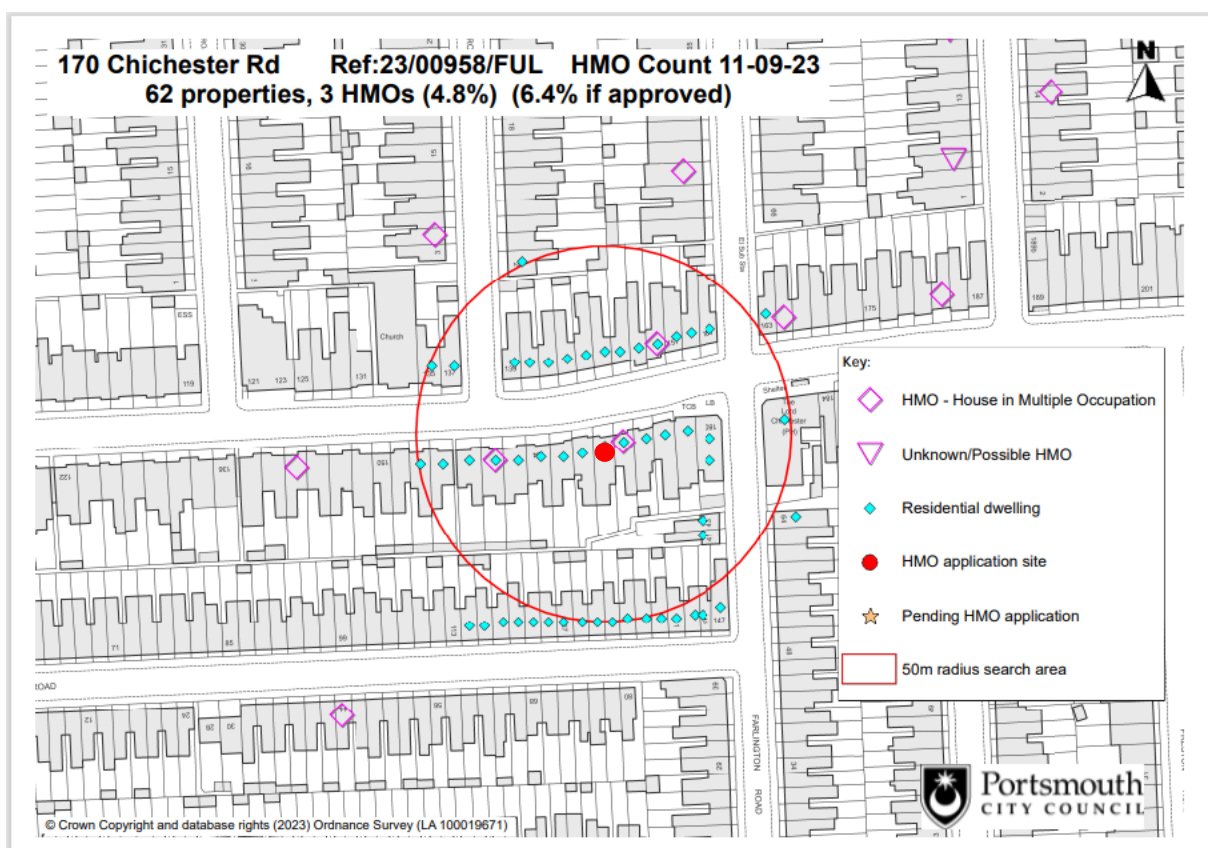


Figure 2: HMO data count map (50m radius)

### 7.3 Standard of accommodation

- 7.4 If the property is operated as a Class C4 small HMO this would have an effect on the ratio of communal/amenity space compared to private bedroom space available internally for future occupants. While this matter will also be considered as part of the necessary licensing of the HMO by the Private Sector Housing team under the Housing Act, the HMO SPD identifies this as a consideration as part of the assessment of whether a good standard of living environment is provided for future residents as required by Local Plan Policy PCS23. Under the current proposal the following room sizes would be provided, as compared to the minimum size prescribed in the Council's adopted guidance:

Room	Area Provided:	Required Standard:
Bedroom 1	13.39m <sup>2</sup> (area with ceiling height above 1.5m)	10m <sup>2</sup>
Bedroom 2	12.6m <sup>2</sup>	10m <sup>2</sup>
Bedroom 3	19.2m <sup>2</sup>	10m <sup>2</sup>
Bedroom 4	14.11m <sup>2</sup>	10m <sup>2</sup>
Bedroom 5	15.8m <sup>2</sup>	10m <sup>2</sup>
Bedroom 6	11.2 m <sup>2</sup>	10m <sup>2</sup>
Shared bathroom	4m <sup>2</sup>	3.74m <sup>2</sup>
Ensuite 1	2.9m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite 2	2.9m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite 3	2.96m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite 4	3.17m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite 5	3.16m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite 6	2.76	2.74m <sup>2</sup>
Ground Floor WC	2.86m <sup>2</sup>	1.17m <sup>2</sup>
Living Room (6 or more persons)	11.2m <sup>2</sup>	Not required within combined living space is provided
Combined Kitchen/dining (6 or more persons)	23.66m <sup>2</sup>	22.5sqm (As all bedroom exceed 10m <sup>2</sup> )
Study	11.6m <sup>2</sup>	Not required within combined living space is provided

**Figure 3: HMO SPD (Oct 2019) compliance**

- 7.5 As is shown in the table above, all of the bedrooms accord with the standards as set out within the HMO SPD (October 2019) and 'The Standards for Houses in Multiple Occupation' document dated September 2018. A lounge room of 11.2m<sup>2</sup> and a combined kitchen/dining room of 23.66m<sup>2</sup> and a separate study of 11.6m<sup>2</sup> would be provided. Given all six bedrooms meet or exceed 10m<sup>2</sup>, the size expected, as described in the Standards for Houses in Multiple Occupation' PCC guidance, for combined kitchen/dining is 22.5m<sup>2</sup>. At 23.66m<sup>2</sup> the combined living space comprising the kitchen-diner meets this minimum standard and consequently the further 11.2m<sup>2</sup> of a separate lounge and 11.6m<sup>2</sup> study shown are provided in excess of this standard. In combination these would provided communal living space of about 46m<sup>2</sup>. It is considered that this would provide an adequate communal living space for future occupiers. Members will be aware of a growing trend my some planning agents to make incremental planning applications, with 'excess' communal spaces, such as the lounge and study in this case, later being converted into additional bedrooms with or without further planning applications. The Council must consider each case on its own merits and based on the plans before it, so any such future change is not a material consideration at this time. Members may however wish to note that should both the lounge and study be converted to single occupancy additional bedrooms, the resultant 8-bed, 8-person HMO would still meet the space standards adopted by the Council in 'The Standards for Houses in Multiple Occupation' document dated September 2018.
- 7.6 One separate WC would be provided at ground floor. Furthermore, all habitable rooms would have good access to natural light and would be of an appropriate configuration/layout.

- 7.7 As such, it is considered the proposal would provide an adequate standard of living accommodation to facilitate up to 6 persons sharing and the proposals would accord with the SPD.
- 7.8 **Impact on neighbour amenity**
- 7.9 The property if operated as Class C4 could have a proportionate increase in activity within and coming and going from the property. However, the level of activity that could be associated with the use of any individual property either as a dwellinghouse(C3), would be unlikely to be significantly different than the occupation of the property by between 3 and 6 unrelated persons as a HMO. It is therefore not considered the proposal would result in a demonstrably higher level of harm to existing general levels of residential amenity in the area, whether from noise, additional vehicle use or any other form of nuisance/disturbance.
- 7.10 Whilst noise may be increased with the introduction of a further HMO in this location, it is not considered to result in an overconcentration of HMOs within the surrounding area, and therefore it is considered that the impact of one further HMO would not be significantly harmful at this particular point in time.
- 7.11 The HMO SPD is supported by an assessment of the need for, and supply of, shared housing in Portsmouth and 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 this application would not impact on or result in over-concentration of HMOs within the surrounding area, it is considered that the impact of the proposed C3/C4 HMO would not be significantly.
- 7.12 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.
- 7.13 **Amenity and Parking**
- 7.14 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.
- 7.15 The proposed use describes occupation by up to 6 people, while a C3 dwellinghouse could be more or less, and as such it is not considered to represent an increase in overnight stays. The proposal is thus not considered to have a demonstrable impact on the parking need over and beyond the existing. Therefore, it is considered that refusal on a lack of parking is not reasonable or defensible and 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.
- 7.16 The Portsmouth parking SPD also gives the expected level of cycle parking that should be provided for residential developments. A 4+ bedrooms has an expected demand for 4 cycle parking spaces. A 4no. bicycle storage facilities have been submitted with this application and this would be secured via condition.
- 7.17 **Waste**
- 7.18 The storage of refuse and recyclable materials would remain unchanged and an objection on waste grounds would not form a sustainable reason for refusal.



#### 7.19 **Impact on Special Protection Areas**

- 7.20 Whilst it is acknowledged that there are ongoing issues around the nitrification of the Solent due to increased levels of runoff from residential development, this application is for the change of use of the property from C3 to flexible C3/C4 use. The proposed use would allow occupation by up to 6 people, while a C3 dwellinghouse could be more or less, and as such it is not considered to represent an increase in overnight stays. The development would therefore not have a likely significant effect on overnight stays nor therefore on the Solent Protection Areas or result in an increased level of nitrate discharge.

#### 7.21 **Human Rights and the Public Sector Equality Duty ("PSED")**

- 7.22 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.
- 7.23 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.

### 8.0 **CONCLUSION**

- 8.1 As detailed above the application is considered to fully comply with the relevant policies of the Local Plan. Having regard to all material planning consideration and representations it is concluded that the proposed change of use is acceptable and would be in accordance with the relevant policies of the Portsmouth Plan (2012) and the objectives of the National Planning Policy Framework (2021).

### 9.0 **RECOMMENDATION**

- 9.1 **Approve subject to the following conditions:**

#### **Time limit**

- 1) The development hereby permitted shall be begun before 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 (as amended).

#### **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:
- Location plan
  - Proposed site plan
  - Dual Use Plan PG.8098 - 23 - 4
  - 4 Cycle storage shed Drg no.1.

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

**Cycle storage**

- 3) Prior to the occupation of the dwelling as a HMO for 6 persons, secure and weatherproof cycle storage for four or more bicycles shall be provided as shown on the approved plans and retained thereafter for the storage of bicycles.

Reason: To ensure that adequate provision is made for cyclists using the premises in accordance with policies PCS17 and PCS23 of the Portsmouth Plan (2012).

**Building Operations**

- 4) Prior to first occupation of the property as a C4 House in Multiple Occupation for 6 persons, the building operations indicated within approved drawing Dual Use Plan PG.8098 · 23 · 4, namely the construction of the single storey rear extension and rear dormer, shall be completed.

Reason: To ensure that adequate and communal living space is provided in accordance with Policy PCS23 of the Portsmouth Plan (2012) and the Houses in Multiple Occupation Supplementary Planning Document (2019).