

**23/00704/FUL**

**WARD:COPNOR**

**53 KENSINGTON ROAD PORTSMOUTH PO2 0DY**

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

**WEBSITE LINK - [23/00704/FUL | Change of use from dwellinghouse to purposes falling within Classes C3 \(dwellinghouse\) or C4 \(House in Multiple Occupation\) | 53 Kensington Road Portsmouth PO2 0DY](#)**

**Application Submitted By:**

Mrs Carianne Wells  
Applecore PDM Ltd

**On behalf of:**

Dr Taylor

**RDD:** 9th June 2023

**LDD:** 7th August 2023

## **1.0 SUMMARY OF MAIN ISSUES**

- 1.1 This application is brought before Planning Committee due to the number of objections (8) including one from Councillor Wemyss who has called this application to committee.
- 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;
  - Parking;
  - Waste;
  - Amenity impacts upon neighbouring residents;
  - Impact upon the Solent Protection Areas; and
  - Any other raised matters.

## **2.0 SITE AND SURROUNDINGS**

- 2.1 The application relates to a two-storey, mid-terrace dwellinghouse (Class C3) located on the western side of Kensington Road. The dwellinghouse is set back from the road where there is a boundary fence and a pathway to the front entrance and a single garage door in the ground floor elevation. To the rear of the property is an enclosed garden. The existing layout comprises of a garage, kitchen, WC, lounge and conservatory at ground floor level; three bedrooms and a bathroom at first floor level.
- 2.2 The application site is within a predominantly residential area, there are a variety of styles of properties in the area which are predominantly two-storey.

## **3.0 THE PROPOSAL**

- 3.1 Planning permission is sought for the change of use of the property from a dwellinghouse (Class C3) to a dwellinghouse (Class C3) or House of Multiple Occupation (HMO) (Class C4) use.
- 3.2 The Applicant intends to construct the single storey rear extension (see planning history) and a rear dormer extension (under permitted development), as shown in the drawing below, to facilitate the enlargement of the property before undertaking the proposed change of use. The extensions and alterations can be completed under permitted development regardless of whether the property is in Class C3 or C4 use.
- 3.3 Given the external alterations and enlargements to the property are considered to be permitted development, it is not possible to consider the design or amenity impact of the rear dormer as part of this application. There would be no external operational development forming part of this application with the exception of the siting of a cycle store within the rear garden, details of which could be secured by planning condition.

#### **4.0 PLANNING HISTORY**

- 4.1 In 2023 application 23/00023/GPDC was submitted for construction of single storey rear extension extending 6m from the rear wall, with a maximum height of 3m and 2.8m to the eaves. This was a prior approval application. It was determined that prior approval was not required on 9<sup>th</sup> May 2023.

#### **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.

- 6.2 Highways - No objection, subject to condition for cycle parking. Proposal would not have a material impact. Parking Standards SPD requirement is for two parking spaces, which is the same as for C3 with four or more bedrooms.

## 7.0 REPRESENTATIONS

- 7.1 Eight representations have been received objecting to the proposed development, including one from Councillor Wemyss who has requested that this application is called to committee.

- 7.2 The above representations of objection have raised the following concerns:

- a) Parking
- b) Amenities
- c) Noise/disturbance
- d) Waste/ refuse
- e) Strain on local services
- f) Antisocial behaviour
- g) Loss of parking space due to removal of garage at property
- h) Pedestrian safety
- i) Residential amenity
- j) Drainage/ sewage
- k) Utilities not designed for this level of use.
- l) Too many HMO's
- m) Increase of visitors to the property
- n) Loss of property value
- o) Impact to health
- p) Construction noise

## 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

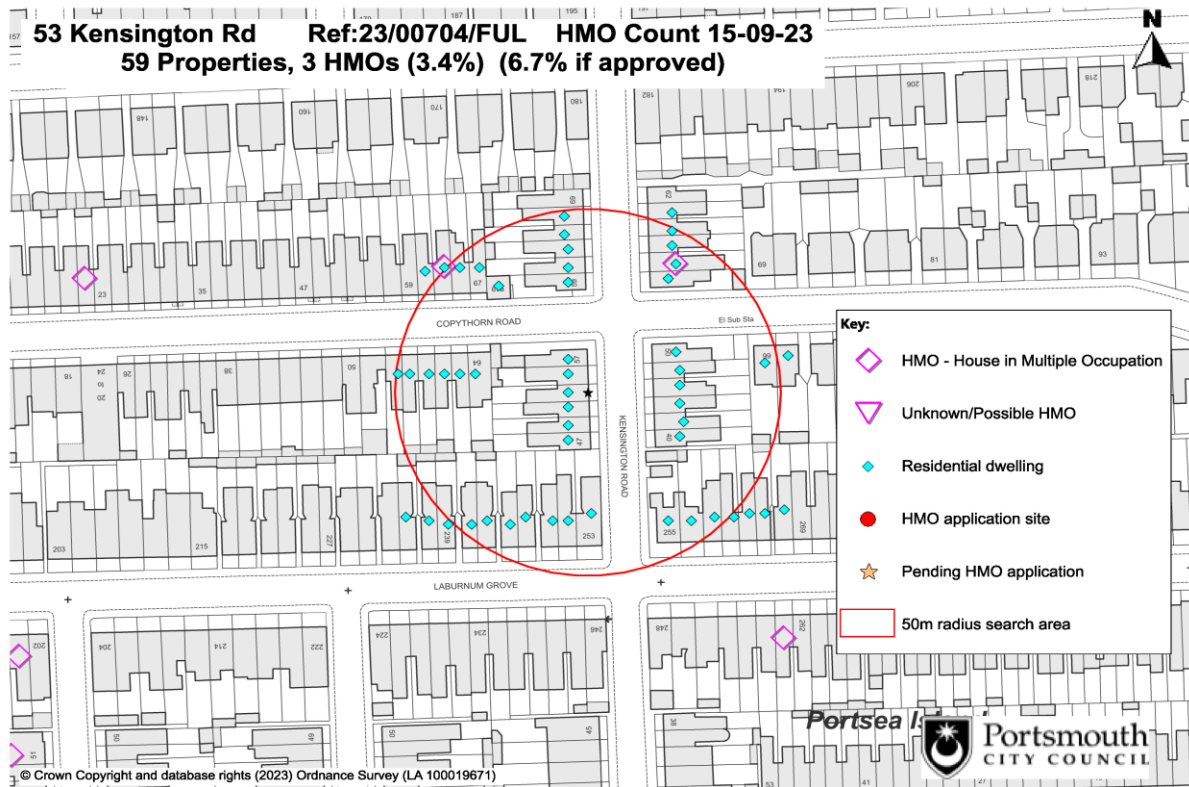
- 8.3 Permission is sought for the use of the property for purposes falling within Class C3 (dwellinghouse) to Class C4 (house in multiple occupation) (HMO). The property currently has a lawful use as a self-contained dwelling (Class C3). For reference, a Class C4 HMO is defined as '*a property occupied by between three and six unrelated people who share basic amenities such as a kitchen or bathroom*'.

- 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.

8.5 Based on the information held by the City Council, of the 59 properties within a 50-metre radius of the application site, there are only 2 confirmed HMOs (Class C4) at 54 Kensington Road and 63 Copythorn Road as shown below. 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.

8.6 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 6.7% if approved. This would be lower than the 10% threshold above which an area is considered to be imbalanced and in conflict with Policy PCS20.



Existing HMOs within 50m of the application site

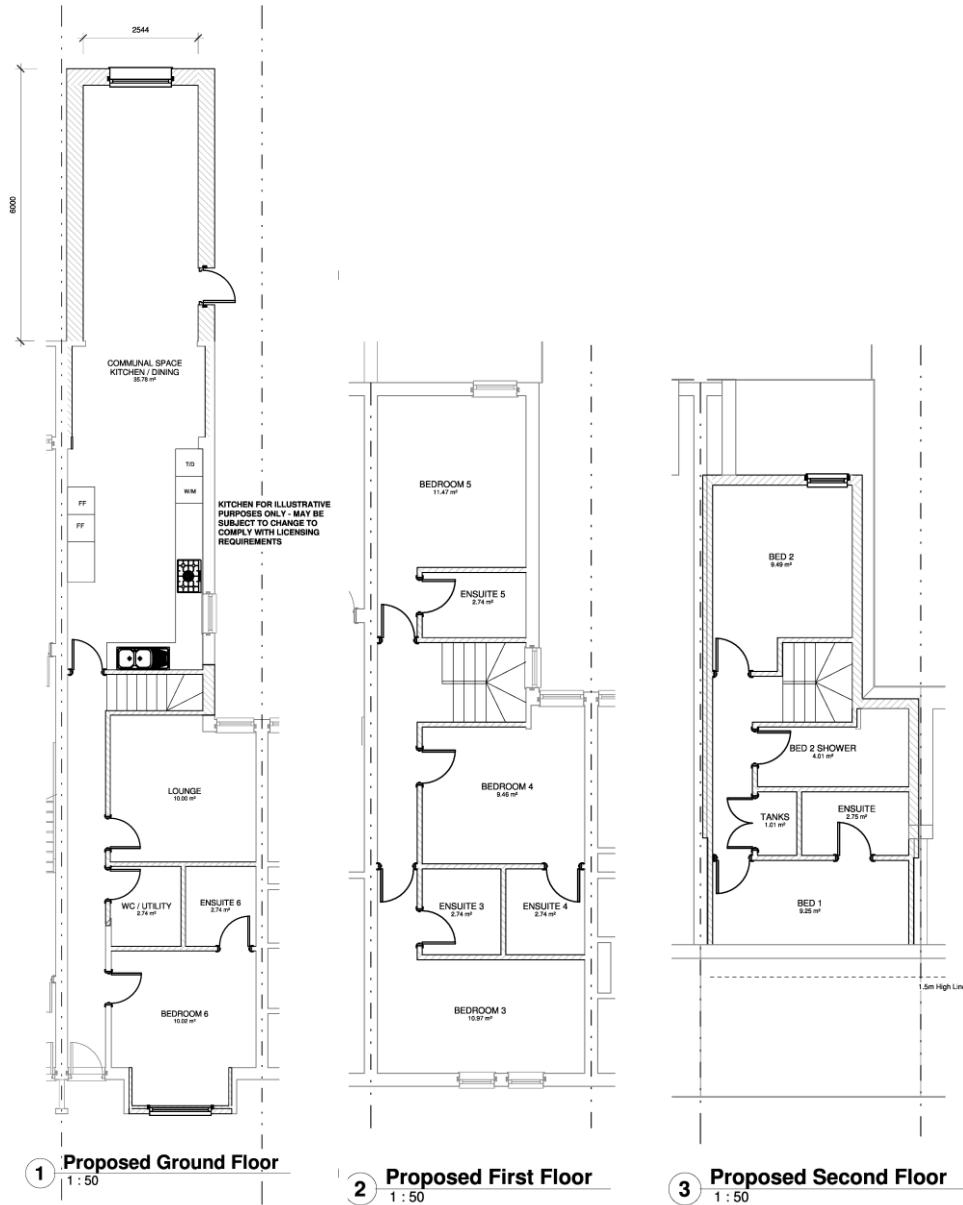
8.7 A further policy strand introduced in July 2018, amended in October 2019, seeks to ensure that the amenity and standard of living environment of neighbours and local occupiers is protected. This is explained within Appendix 6 of the HMO SPD, which references the specific proximity of HMOs to adjacent 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 Policy PCS20 of the Portsmouth Plan (2012).

8.9 Standard of accommodation

8.10 The application seeks, in addition to a C3 use, the opportunity to use the property as a C4 HMO which would, in planning terms, technically allow occupation by up to six individuals. The submitted plans have been checked by officers, and, notwithstanding the annotations on the submitted plans the measured rooms sizes have been used for assessment purposes. For the proposed C4 HMO use, the room sizes have been assessed against the space standards for an HMO as shown below.

Room	Area Provided	Required Standard
Bedroom 1 (second floor)	9.25m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 2 (second floor)	9.49m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 3 (first floor)	10.97m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 4 (first floor)	9.46m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 5 (first floor)	11.47m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 6 (ground floor)	10m <sup>2</sup>	6.51m <sup>2</sup>
Ground floor shared wc	2.74m <sup>2</sup>	1.17m <sup>2</sup>
Living room (ground floor)	10.m <sup>2</sup>	Unrequired/additional
Communal Kitchen/Dining area (ground floor)	35.78m <sup>2</sup>	34m <sup>2</sup> , or 22.5m <sup>2</sup> if all bedrooms meet or exceed 10m <sup>2</sup>
Ensuite bathroom 1 (second floor)	2.75m <sup>2</sup>	2.74m <sup>2</sup>
Bathroom 2 (second floor)	4m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 3 (first floor)	2.74m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 4 (first floor)	2.74m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 5 (first floor)	2.74m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 6 (ground floor)	2.74m <sup>2</sup>	2.74m <sup>2</sup>



8.11 All of the rooms 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. Furthermore, all habitable rooms would have good access to natural light.

8.12 Impact on neighbouring living conditions

8.13 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 (Class C3) which involves occupation by a single family, would be unlikely to be significantly different from the occupation of the property by between 3 and 6 unrelated persons as a house in multiple occupation.

8.14 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 further HMO would not be significantly harmful.

- 8.15 Whilst activity in regards to coming and goings to the site as well as cooking and general household activities, through the occupants possibly not acting as a collective and therefore cooking meals on an individual basis, may be increased with the introduction of a HMO in this location, it would not result in an overconcentration of HMOs within the surrounding area, and therefore it is considered that the impact of one further HMO (bringing the total to three within a 50m radius) would not have any demonstrable adverse impact to wider amenity.
- 8.16 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.
- 8.17 Highways/Parking
- 8.18 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 Class C4 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 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 expected level of parking demand for a Class C3 dwellinghouse with three bedrooms (as existing) is 1.5 off-road spaces.
- 8.19 The existing garage, which is below the size standard that may be expected for a usable garage within current guidance (and therefore does not count as a parking space for the purposes of calculations) could be converted to a habitable room without the need for planning permission. The conversion of the garage and thus the reduced demand for vehicular access to the property may increase the provision of on street parking in due course, all be it this is not part of the application as the dropped curb and gates may be retained, and cannot therefore be attributed weight in the determination of the application.
- 8.19 As the level of occupation associated with a HMO is not considered to be significantly greater than the occupation of the property as a Class C3 dwellinghouse (noting the existing use, permitted development allowances, and the flexible use applied for), it is considered that an objection on either highway safety grounds, or car parking standards, 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.
- 8.20 The Council's Adopted Parking Standards set out a requirement for C4 HMOs to provide space for the storage of at least 4 bicycles. The property has a rear garden where secure cycle storage could be located. The requirement for cycle storage is recommended to be secured by condition.

8.21 Waste

- 8.22 The storage of refuse and recyclable materials would be located in the forecourt area, it is considered that the increase in waste/ refuse would be similar for a larger family living at the same property, or for an HMO use, and can be readily accommodated within the forecourt area, and an objection on waste grounds would not form a sustainable reason for refusal.

8.23 Impact on Special Protection Areas

- 8.24 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 (dwellinghouse) to a C3 or C4 use (both would allow up to 6 people), 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 the Solent Special Protection Areas or result in an increased level of nitrate discharge.

8.25 Community Infrastructure Levy (CIL)

- 8.26 The development would not be CIL liable as it would not increase in the Gross Internal Area of the application property by more than 100m<sup>2</sup>.

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

- 8.28 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.

- 8.29 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.

8.30 Other Matters raised in the representations

- 8.31 In addition to the matters set out within the planning assessment above, concerns have been raised by neighbouring residents in respect of other matters that are not material to the consideration of a planning application:



- The loss of property value is not a material planning consideration.
- Matters of undue noise and disturbance, beyond what may be considered reasonable would be a matter for Environmental Health through an abatement notice.
- Matters of antisocial behaviour would be addressed through the Police
- Matters of sewage connections or infrastructure works are matters for the Statutory Water Undertaker. The proposal would not have a material strategic impact that could substantiate a reason for refusal.

## **9.0 CONCLUSION**

9.1 Having regard to all material planning considerations 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 (NPPF) (2023).

## **RECOMMENDATION            Conditional Permission**

### **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.

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#### **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; PG8040-23-2 - Dual Use Plan

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 within Use Class C4, 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.