

12 THURBERN ROAD PORTSMOUTH PO2 0PJ

CHANGE OF USE FROM A CLASS C3 DWELLINGHOUSE TO A 7-BED/7-PERSON HOUSE IN MULTIPLE OCCUPATION (RESUBMISSION OF 22/01152/FUL)

[23/01073/FUL | CHANGE OF USE FROM A CLASS C3 DWELLINGHOUSE TO A 7-BED/7-PERSON HOUSE IN MULTIPLE OCCUPATION \(RESUBMISSION OF 22/01152/FUL\) | 12 THURBERN ROAD PORTSMOUTH PO2 0PJ](#)**Application Submitted By:**

Mrs Carianne Wells
Applecore PDM Ltd

On behalf of:

Mr Lawrence Hubbard

RDD: 21st August 2023

LDD: 16th October 2023

1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee as it is a re-submission of an application, previously refused by the Planning Committee on 12th July 2023.

1.2 The main issues for consideration in the determination of the application are as follows:

- Principle of Development including compliance with policy;
- Impacts on Amenity including parking; and
- Other material considerations.

1.3 Site and surroundings

1.4 The application site is a two-storey terraced dwelling with rooms in the roof in a predominately residential area.

1.5 The Proposal

1.4 The Applicant has sought planning permission for the change of use of the dwelling from its current last lawful use falling within dwellinghouse (Class C3) to allow up to 7 individuals to live together as an HMO. It can be noted that a previous planning permission ref no. 22/00304/FUL was granted for change of use from dwelling house (Class C3) to a dual use of either dwelling house (Class C3) or House in Multiple Occupation (Class C4) on 16/06/2022, though the potential use under Class C4 has not yet been carried out at the site.

1.5 Planning History

1.6 22/01152/FUL: Change of use from Class C3 (dwelling house)/Class C4 (House in Multiple Occupation) to 7 person House in Multiple Occupation (Sui Generis). Refused Committee Decision (29.08.2023). Reason for refusal:

1. *The layout of the accommodation and resultant usable floorspace provided in bedrooms 2 & 3 is insufficient to provide occupants with amenity in preference or in addition to the communal living space, and therefore overall the development is not considered to provide a good standard of living environment for those occupants contrary to PCS23 of the Portsmouth Plan.*

2. *It has been identified that in the absence of a suitable agreement to secure appropriate mitigation measures for the increased discharge of nitrogen and phosphorous into the Solent water environment, the development 10 would be likely to have a significant effect on the Solent Special Protection Areas and is therefore contrary to the National Planning Policy Framework, policy PCS13 of the Portsmouth Plan and the Conservation of Habitats and Special Regulations 2017 (as amended).*

1.7 Following this refusal the application has changed agents and the floorplans re-measured and re-configured. An affidavit has been submitted by the applicant stating that the previous measurements were incorrect in relation to the floorplans. The new floorplans have been implemented in part and the Case Officer has attend a further site visit, to validate the measurements on the plans and can confirm they are correct to the revised floorplans. As highlighted above the application was previously refused due to the layout of bedroom 2 and 3. The revised submission proposes an alternative layout for the ground and first floor, with detailed differences show on **Figure 3 and 4**. The primary changes are to the ensuites which have been altered to reduce the amount of the space within the bedrooms made up by narrow, hallway elements.

1.8 22/00304/FUL: Change of use from dwelling house (Class C3) to dwelling house (Class C3) or House in Multiple Occupation (Class C4). Conditional Permission (16.06.2022).

2.0 POLICY CONTEXT

2.1 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).

2.2 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 Updated Nutrient Neutral Mitigation Strategy (2022), and The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD')

3.0 CONSULTATIONS

3.1 Private Sector Housing: The City Council Private Sector Housing team advise that this property would require to be licenced under Part 2, Housing Act 2004.

4.0 REPRESENTATIONS

4.1 Four objection comments have been received raising the following concerns:

- a) Overlooking into rear bedroom windows of adjacent properties;
- b) Anti-social behaviour;
- c) Parking; and
- d) Waste and recycling;
- e) Loss of light; and
- f) Impact on local services.

5.0 COMMENT

5.1 The main issues to consider in the determination of this application is whether the proposal is acceptable in principle and whether the reasons the previous application was refused have been overcome.

5.2 Principle

- 5.3 The House in Multiple Occupation (HMOs) - Ensuring mixed and balanced communities Supplementary Planning Document (SPD) (as amended in October 2019) 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.
- 5.4 In this case the application site and the refurbishment of the property has substantially progressed in readiness for occupation as an HMO under planning permission 22/00304/FUL. The application has been made to recognise the works to pursue an alternative internal layout, repurposing a ground floor living room, allowing for 7 bedrooms within the site. The existing benefit of a permission to use the dwelling as a C4 HMO is a material consideration in the determination. In any case the application is not considered, on its individual facts to create any material impact on the balance of the community in the area. The HMO SPD suggests a threshold of 10% of dwellings in any area of 50m radius as a maximum proportion of HMO dwellings to C3, single household, dwellings. As the minor increase in occupancy does not change this mix of dwellings the proposal has no impact on this guidance. For reference, it can be noted however that the relevant 50m radius area is currently made up of 1 HMOs out of 67 properties, a percentage of 1.49%. This proposal of course has no effect on that percentage. 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 number of HMOs next to each other. As this proposal does not involve the creation of a new HMO these considerations are not brought into effect.



Figure 1 HMO Layout

5.5 The repurposing of internal rooms to accommodate the additional occupants within this proposal will 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	13.23m ²	6.51m ²
Ensuite B1	2.85m ²	2.74m ²
Bedroom 2	12.58m ²	6.51m ²
Ensuite B2	2.79m ²	2.74m ²
Bedroom 3	10.15m ²	6.51m ²
Ensuite B3	2.74m ²	2.74m ²
Bedroom 4	11.74m ²	6.51m ²
Ensuite B4	2.74m ²	2.74m ²
Bedroom 5	12.25m ²	6.51m ²
Ensuite B5	2.94m ²	2.74m ²
Bedroom 6	10.74m ²	6.51m ²
Ensuite B6	2.74m ²	2.74m ²
Bedroom 7	11.74m ²	6.51m ²
Ensuite B7	2.74m ²	2.74m ²
Combined Living Space	23.49m ²	22.5m ²

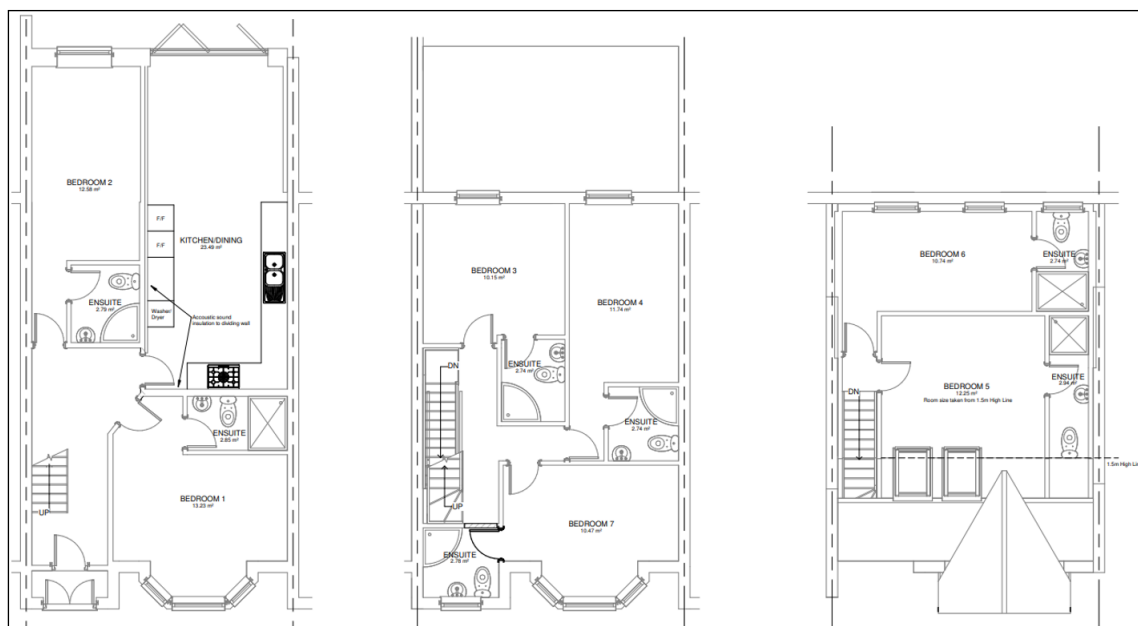


Figure 2 Proposed Floorplans

5.6 This is a re-submission of a previously refused scheme, as highlighted above the application was previously refused due to the layout of bedroom 2 and 3. The revised submission proposes an alternative layout for the ground and first floor, with detailed differences show on **Figure 3 and 4**. The primary changes are to the ensuites which have been altered to reduce the amount of the space within the bedrooms made up by narrow, hallway elements. It is considered that given the revisions to the internal layout and size of the rooms, in the Officers view, the resubmission has overcome the previous reason for refusal. On the basis of the information supplied with the application, the

resulting layout is considered to result in a satisfactory standard of living environment and therefore result in an acceptable standard of accommodation for the occupation.

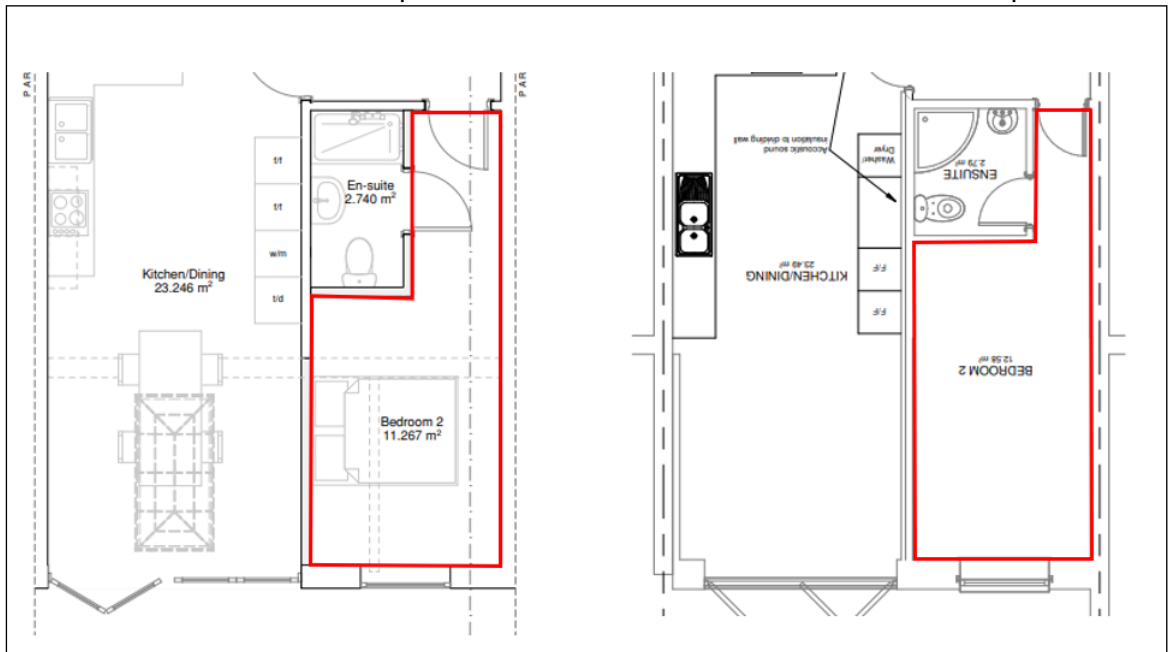


Figure 3 Previous ground floor layout and current ground floor layout

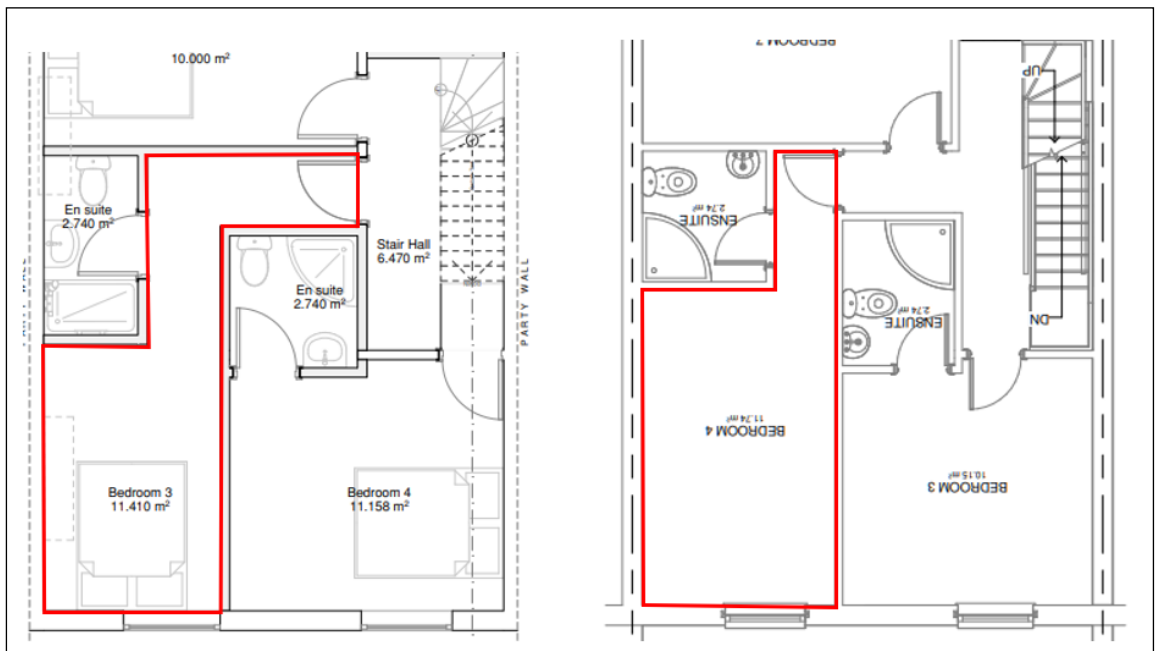


Figure 4 Previous first floor layout and current first floor layout

5.7 Amenity and Parking

- 5.8 The proposal would increase the occupancy compared to the approved HMO by 1 occupant. While this would have a proportionate increase in activity within and coming and going from the property this small increase in the number of residents is not considered likely to have any demonstrable adverse effect on residential amenity for neighbours of the surrounding area. Nor is the increase in parking demand considered to be materially different from that generated by a C3 dwelling house.
- 5.9 Similarly the minor increase of occupants is not considered to have a demonstrable impact on the parking need and thus parking availability in the wider area. It is noted that the Council's adopted Parking Standards, within the associated SPD has the same expectation for the number of parking spaces, 2 spaces per dwelling, for any scale of

HMO with 4 or more bedrooms. Consequently, the proposal remains in accordance with the Council's adopted guidance on parking provision.

5.10 Other Material Considerations

5.11 A further consideration in this case is the necessity to recognise the fall-back position available to the applicant; that is the position they could take if this application is refused. In this case the addition of only 1 occupant to the existing lawful HMO is not considered to amount to a material change in the use of the dwelling. However as this site has not yet been used as a six bed HMO the determination of the application must be made in the first instance for a change of use between a C3 dwelling house and a 7 bed HMO, against the policies of the development plan. As the application complies with these policies this notional fall back, while material, does not need to be considered further.

5.12 The Committee's attention is drawn to the current 5 year housing land supply position within Portsmouth. In any planning application, the decision-maker will need to 'balance' any harms identified due the development against any benefits also arising. Principally, for this HMO application, the benefits are to the provision of housing through the provision of additional bedspace of occupation within the HMO. While this is a small contribution to the overall housing stock, the Council currently is unable to identify a 'five year supply' of housing, with only a 2.9 year supply currently identifiable. In this circumstance, the Council is directed to consider that the policies which are most important to determinations associated with housing provision within the Local Plan are out of date. The consequence of this is that decision takers are directed to apply a tilted balance to determinations so that permission is only withheld when the adverse impacts '*...significantly and demonstrably outweigh the benefits...*'. Any harm associated with the increase in occupancy in this area are considered to be insignificant and therefore fall short of being able to significantly and demonstrably outweigh even the small benefit to the city's housing stock of the provision of bedspaces.

5.13 Impact on Special Protection Areas

5.14 Changing the use of the premises from a C3 dwelling to a 7 bed HMO will result in an increase in occupancy which will have an adverse impact on the Solent Special Protection Area and cause an increase in nitrate output and therefore a condition should be applied requiring mitigation to be secured.

6.0 CONCLUSION

6.1 As detailed above, the application is considered to be fully comply with the relevant policies of the Local Plan meeting the adopted standards for room sizes and providing a good standard of living accommodation in accordance with Policy PCS23 of the Local Plan. As the application itself, notwithstanding any weight that should be given to potential alternative routes to allowing a similar occupation, requires planning permission it is recommended that permission be granted subject to the imposition of conditions requiring implementation of the additional occupancy within 3 year (a Time Limit condition), requiring that the development be carried out in accordance with plans submitted (an Approved Plans condition), and requiring that that increased occupancy should not occur until an appropriate scheme of mitigation is submitted and approved to mitigate any impact on the Solent Special Protection Area.

RECOMMENDATION I - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to grant Conditional Permission subject to completion of a Legal Agreement to secure the following:

- i. To mitigation of the development with respect to the recreational disturbance to the Special Protection Areas.
- ii. Nitrate neutrality mitigation for the Special protection Areas

RECOMMENDATION II - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary, and

RECOMMENDATION III - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to refuse planning permission if a Legal Agreement to secure the affordable housing, and the mitigation of the development with respect to the Special Protection Areas pursuant to Recommendation I has not been completed within three months of the date of this resolution.

Conditions:

1) Time Limit

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.

2) Approved Plans

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: Sui Gen Plans PG.6180.21.6 Rev A, TQRQM22306133813088.

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

3) Water Efficiency

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.

4) External works

Prior to first occupation of the property as a House in Multiple Occupation within Use Class C4, the building operations indicated within approved drawing Elevations - PL04, namely the construction of the 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).