

75 WADHAM ROAD PORTSMOUTH PO2 9ED**CHANGE OF USE FROM 5-BED/5-PERSON HOUSE IN MULTIPLE OCCUPATION TO 8-BED/8-PERSON HOUSE IN MULTIPLE OCCUPATION****[23/01065/FUL | CHANGE OF USE FROM 5-BED/5-PERSON HOUSE IN MULTIPLE OCCUPATION TO 8-BED/8-PERSON HOUSE IN MULTIPLE OCCUPATION | 75 WADHAM ROAD PORTSMOUTH PO2 9ED](#)****Application Submitted By:**

Mrs Carianne Wells
Applecore PDM Ltd

On behalf of:

Cook
Mad Jacks Developments Ltd

RDD: 18th August 2023

LDD: 13th October 2023

1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee due to the number of objections received.

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
- Other material considerations

2.0 SITE AND SURROUNDINGS

2.1 The application site is a two-storey terraced dwelling in a residential area.

3.0 THE PROPOSAL

3.1 The Applicant has sought planning permission for the change of use of the dwelling from the current lawful use of as a HMO with up to six individuals living together to allow up to 8 individuals to live together as an HMO. This change in occupancy will involve the repurposing of internal rooms but no external operational development forms part of this application.

4.0 PLANNING HISTORY

4.1 The property regularised the use as a small HMO through the grant of a lawful development certificate '23/00552/CPE', issued 29th June 2023. A HMO Licence was also granted on the 1st November 2018.

5.0 POLICY CONTEXT

5.1 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).

- 5.2 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')

6.0 CONSULTATIONS

- 6.1 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.

7.0 REPRESENTATIONS

- 7.1 12 representations objecting to the application have been received.
- 7.2 These comments raised a variety of issues including: neighbouring amenity, overcrowding, parking, pressure on local services, pressure on drainage, fire hazards, impacts on community character, property values, density of housing.

8.0 COMMENT

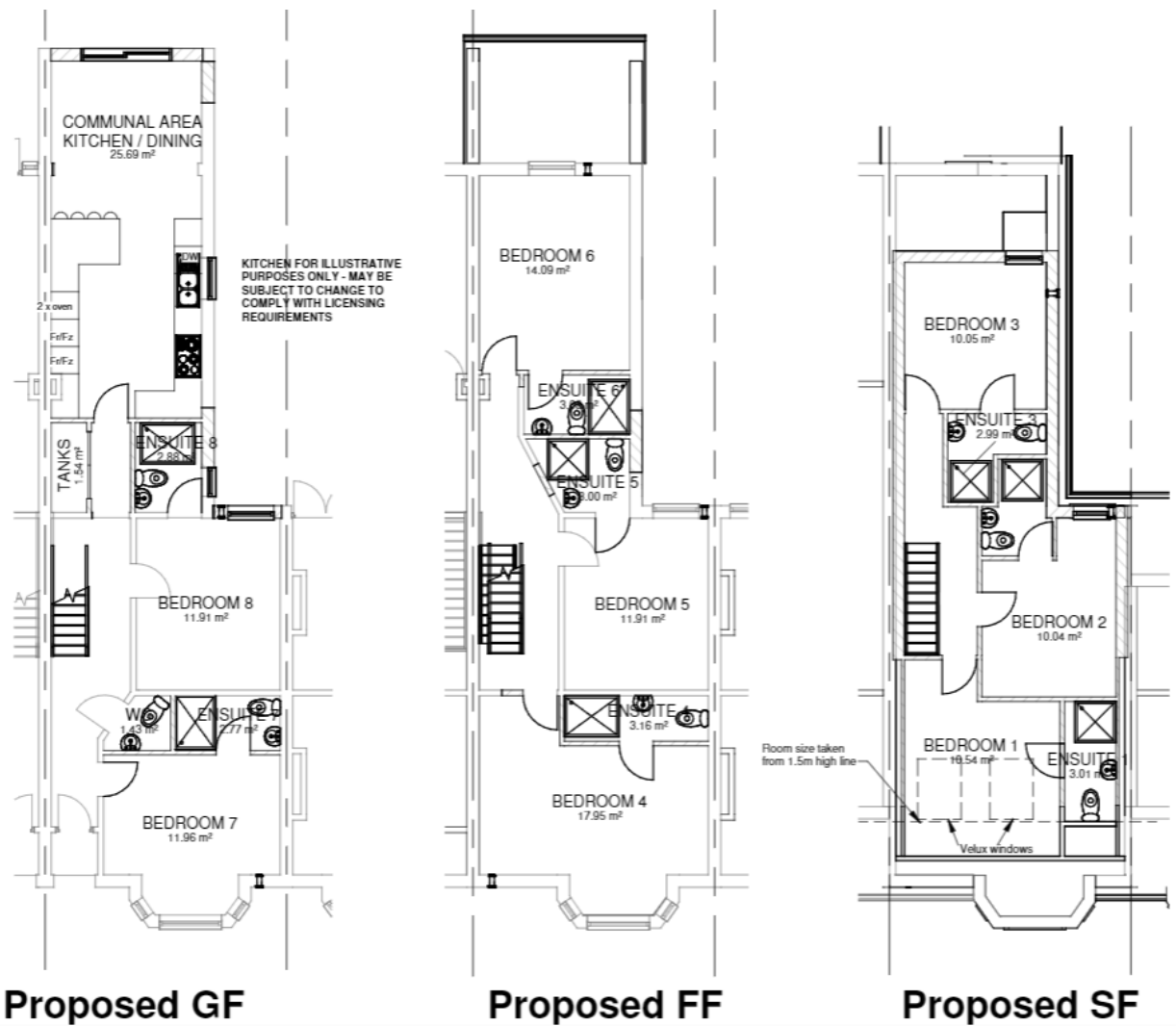
- 8.1 The main issues to consider in the determination of this application is whether the proposal is acceptable in principle.

9.0 Principle

- 9.1 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.
- 9.2 In this case the application site is already in lawful use as an HMO and the application has been made to recognise the intention to increase its occupation by 3 occupants. As such 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 6 HMOs out of 64 properties, a percentage of 9.3%. This proposal of course has no effect on that percentage and the small increase of HMO dwelling occupants in this area is not considered to create any demonstrable imbalance or adverse implications. 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.
- 9.3 The HMO use of this site currently benefits from a Licence granted by Portsmouth City Council to operate as an HMO with up to 5 occupants. This licence was granted on 1st November 2018.

9.4 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:	Size provided for in Guidance:
Bedroom 1	10.54m ²	6.51m ²
Bedroom 2	10.04m ²	6.51m ²
Bedroom 3	10.05m ²	6.51m ²
Bedroom 4	17.95m ²	6.51m ²
Bedroom 5	11.91m ²	6.51m ²
Bedroom 6	14.09m ²	6.51m ²
Bedroom 7	11.96m ²	6.51m ²
Bedroom 8	11.91m ²	6.51m ²
Combined Living Space	25.69m ²	22.52m ² (all rooms are above 10m ²)
Bathroom 1	1.43m ²	3.74m ²



9.5 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 the communal area. 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.

10.0 Amenity and Parking

10.1 The proposal would increase the occupancy of the existing HMO by 3 occupants. 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.

10.2 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.

11.0 Other Material Considerations

11.1 Whether or not the change in occupancy of an HMO amounts to a 'material change of use' resulting in development requiring planning permission is a matter of planning judgement based on the specific circumstance of each case. That judgement will need to assess whether there is some significant difference in the character of the activities from what has gone on previously as a matter of fact and degree. As seen in other applications within this and previous agendas, Officers' view, as demonstrated by the 'Campbell properties' and the 'Lane' appeal decisions is that some changes of use do not necessarily represent development requiring Planning Permission. Therefore, in other cases, the Applicant would benefit from a 'fall-back' position of not requiring Planning Permission. A large number of applications for change in the occupation of a dwelling from a 6 person HMO to a 7 or 8 person HMO have been assessed and, on their own facts Officers have concluded that they do not constitute a material change of use. It can be noted that the Planning Committee has come to a different conclusion.

11.2 In this instance a different circumstance falls to be considered when compared to these other cases. The last use of the application property was as a 5 person HMO. The application seeks occupation of the property as an 8 person HMO. This would result in a more significant change in usage which in the Officers view would represent a material change in the use of the property and therefore would require Planning Permission. This is seen through the likely difference in impact that the additional occupants would represent and which is considered to make a significant difference in the character, and scale of the activities resulting from the proposed use. Other, nominally similar, applications changing the occupation from 6 occupants to 7 seven occupants have been found in the opinion of officers to result in insufficiently change to be considered a material change of use. The same conclusion, in material similar circumstances as noted above, has been drawn at six other sites by Inspectors in the 'Campbell Properties' and 'Lane' appeals. Those appeals are material considerations and to draw a different

conclusion to that which they might superficially suggest, as is the recommendation of Officers, requires a specific and justified reason.

- 11.3 The majority of the cases within the 'Campbell Properties' and 'Lane' appeals, and those since reviewed by Officers as demonstrated elsewhere on this agenda, involve a change of use from 6 occupants to 7 occupants. Members have previously raised concerns that an increase in occupation has an impact on areas of planning relevance, namely amenity, waste water/nitrates, parking and waste/recycling. Within the 'Lane appeal decisions' the Inspector criticised the Council for failing to provide a sound, substantive and defensible basis for their decision making and felt the assertions made in those decisions were vague and generalised. Consequently, Officers have carefully assessed the current application proposal to ensure that the judgement to be applied is specific to the facts and site in question and precise in their formulation.
- 11.4 The change in occupancy in an HMO from 6 people to 7 people is to increase the occupants by 17%. Ostensibly the resultant impact from this additional occupation would proportionately increase by the same percentage. However, in reality each case would likely express this change in different ways. The assessment of that change can sensibly be done with reference to headings highlighted by the Planning Committee in similar applications. For example, it is Officers conclusion that an increase of 1 additional occupant (+17%) cannot be evidenced to have any demonstrable impact on amenity when viewed externally. The total number of movements to and from the property, the likelihood of noise and anti-social behaviour and the day to day activity within the dwelling, while increasing by 17% would be arguably objectively imperceptible to neighbours and passers-by. Similarly the increase in waste water from an additional occupant would have an insignificant impact on the water management and disposal. While, in combination with all other increases in waste water within the catchment of the relevant Waste Water Treatment Works (Budds Farm), this can be considered to have a cumulative impact on eutrophication within the Solent Waters that precautionary and cumulative assessment is relevant only in respect of the specific Habitats Regulation assessment which is only engaged if a need for planning permission is established. Consequently the impact on waste water and nitrates from adding a single additional occupant to an HMO is not considered to demonstrate a material change in the use of that dwelling. When looking at parking implications it becomes even more challenging as the parking demand/stress resulting from occupants varies not just on the number of individuals but on accessibility to alternative modes of transport, personal mobility issues, personal economic circumstances and individual choice. When considering all those factors, especially noting that occupants of HMOs are likely to be in the lowest economic bracket for private rented accommodation, it is again considered unlikely that the minimal, 17%, increase in occupancy would result in a demonstrable implication for parking availability within any given area. In respect of waste and recycling it is however more straightforward. Councils have a good understanding of the demands of different household types and sizes in respect of waste capacity as this is used to provide bins for both recycling and residual waste and to consequently manage the amount of waste collected. In Portsmouth a 6 bed HMO is provided with 720 litres of bin capacity, usually in the form of a single 360l bin for recycling and a single 360l bin for residual waste. More, but smaller bins equivalent to the same capacity can of course be provided as an alternative if the nature of the property requires it. A 7 bed HMO is provided with exactly the same 720 litre amount. Consequently while an individual bin may be more full on collection day there is considered to be no likely difference between a 6 and 7 bed HMO in respect of waste that would be externally apparent.
- 11.5 It is therefore necessary to compare these factors, which have lead Officers to conclude many changes in occupancy from 6 to 7 do not constitute a material change of use, to the facts of the current application, which seeks a change in occupancy from 5 occupants to 8 occupants.

- 11.6 When considering the impact on amenity it is noted that the change in occupation will increase 60%, from 5 to 8, compared to the insignificantly assessed 17%. However there is no evidence that a more intensely used HMO is likely to generate more complaints, regarding noise and anti-social behaviour, than a smaller HMO. This point was examined in the 'Campbell Properties' appeal inquiry. It is of course also to be noted that such amenity impacts will be far more greatly influenced by the nature of individual tenants than the nature/scale of the property albeit the two factors cannot be entirely disentangled. Overall however and notwithstanding that the occupation is proposed to increase by 60% Officers are of the opinion that there is no specific evidence or likelihood that this increase will lead to a significant difference in the character or impact of the use in respect of amenity.
- 11.7 As noted above while the increase in waste water, and nitrates, will have a directly proportionate increase based in the additional occupants the relevance of this only occurs if planning permission is found to be needed and consequently it provides little direct evidence as to that question itself.
- 11.8 Parking demand/stress is however considered to be more likely in the application scenario, increasing occupancy from 5 to 8. While adding a single occupant, likely on lower income is considered very unlikely to have a significant impact on the parking demands in an area, the addition of 3 occupants, the equivalent occupation of an average family dwelling, is considered to be far more likely to result in an increased likelihood of parking stress. It is noted that the application site is located, within easy walking distance of facilities and bus routes at the North End District Centre, however the 60% increase in occupation is, notwithstanding this, considered to lead to a likely associated increase in car ownership and associated identifiable impact on parking amenity and availability
- 11.9 In respect of waste and recycling, as noted above, an increase in a single occupant is unlikely to result in any demonstrable, externally identifiable impacts, as it would not normally require any addition bin capacity to be provided. However in the application scenario, increasing from 5 occupants to 8 the Council's Waste Service Team have been consulted on the application and they have confirmed that the required capacity would have to be significantly increased. A 5 bed HMO has a capacity need of 480 litres (normally 1 x 240l bin for recycling, and 1 x 240l bin for residual waste). A 8 bed HMO has a capacity need of 720 litres (normally 1 x 360l bin for recycling, and 1 x 360l bin plus). This is a 50% increase in capacity. The slight disproportionality of this increase is due to the availability of different wheelie-bin sizes
- 11.10 It is therefore considered that the given the above, the change of use in this instance is fundamentally different to the existing 5 bed HMO use and is distinguishable to the above appeals and distinct from previous applications presented to the Planning Committee. The proposal is considered to be a material change of use constituting development requiring planning permission and does not benefit from a fall-back position to the contrary. It falls therefore to be assessed against the policy of the Local Plan.
- 11.11 A number of objections were raised by neighbouring dwellings in relation to the provision of parking on Wadham Road and surrounding areas. On site visit, the street was seen to be of medium capacity, however it is noted that the time of both site visits was not before 8am or after 5pm when parking is likely to be at capacity.
- 11.12 Impact on Special Protection Areas
- 11.13 The application is for a Class C4 dwelling to a Sui Generis dwelling. The increase in occupancy would be 3 persons, giving a nitrate value of (3/2.4 x 0.87kg) £1088 for mitigation. There should be a water efficiency condition added to the permission. Bird Aware SPA mitigation will be the relevant figure for an increase of 3 bedrooms.

12.0 CONCLUSION

- 12.1 Having assessed the likely significant difference in the nature and implications of the change in occupation it is considered that the change in use is material and requires planning permission. Having regard to all material planning considerations, including the current 5 year land supply within the City and the representations received, 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:

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 Plan

Plans Listing: 'Sui Gen Plan' PG8050 23 05; Received 17th August 2023. 'Location Plan' Received 17th August 2023.

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

3. Water Efficiency:

Unless otherwise agreed in writing by the Local Planning Authority, the dwelling hereby permitted shall not be occupied until written documentary evidence has been submitted to, and approved in writing by the Local Planning Authority demonstrating that each of the dwellings has: Achieved 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 stage water efficiency calculator.

Reason: To reduce water usage in the interests of sustainable development and to comply with Policy PCS15 of the Portsmouth Plan

4 Cycle Storage

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.

5. External Works:

Prior to the occupation of the development hereby approved, the extensions as shown on the approved plans shall be completed.

Reason: To ensure that an adequate standard of accommodation is provided to comply with Policy PCS23 of the Portsmouth Plan.