

23/00619/FUL

WARD: HILSEA

47 ORIEL ROAD PORTSMOUTH PO2 9EG

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

Application Submitted By:

Mr Kercher
incollective.works

On behalf of:

Symonds

RDD: 22nd May 2023

LDD: 24th August 2023

1.0 SUMMARY OF MAIN ISSUES

- 1.1 This application is brought before Planning Committee due to the number of objections received (ten).
- 1.2 The main issues for consideration in the determination of the application/appeal are 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 southern side of Oriel Road as shown in **Figure 1** below. The dwellinghouse is set back from the road by a small front forecourt and to the rear of the property is an enclosed garden. The existing layout comprises of a front room, lounge, kitchen/dining room, at ground floor level; two bedrooms, a spare room 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.



Figure 1 - Site Location Plan

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 with up to six individuals living together.
- 3.2 The proposed internal accommodation, as shown in **Figure 4** below, comprises the following:
 - Ground Floor - Living room; Kitchen/Dining room; WC/Bathroom
 - First Floor - Three bedrooms and 1 bathroom
- 3.3 The Applicant intends to construct a single storey rear extension, a small rear/side extension, a rear dormer extension within the main roof and insert three rooflights within the front roof slope under permitted development, as shown below 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.
- 3.4 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 or the ground floor extensions 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.

- 3.5 Within the application the submitted plans have been amended to reduce the height of the rear dormer, to comply with Permitted Development. This has been achieved via changing the internal floor height. The heights within the floors have been measured and still provide appropriate head height (2.3m).

4.0 PLANNING HISTORY

- 4.1 23/00014/GPDC: Construction of single storey rear extension extending 6m beyond the rear wall, with a height of 2.8m to the eaves and a maximum height of 3m. Refused (14.04.2023) - reason: unneighbourly and overly dominant form of development, detrimental to the amenities of adjoining occupier by overbearing impact, sense of enclosure, overshadowing.

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 Engineer - no objection.
- 6.3 Queens Road is a residential road with parking accommodated through unrestricted on street parking. The demand for parking on street appears high, particularly in the evenings and weekends.
- 6.4 No traffic assessment provided however given the small scale of the development, satisfied the proposal would not have a material impact upon the function of local highway network.
- 6.5 Portsmouth City Councils 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 is noted that the expected level of parking demand for a Class C3 dwellinghouse with four or more bedrooms would also be for 2 off-road spaces.

- 6.6 No parking survey information has been submitted to demonstrate on street capacity if additional demand resulting from the development can be accommodate within a 200m walking distance of the application site. Therefore, there is the potential for increased instances of residents driving around the area hunting for a parking space, although is an issue of residential amenity. This could justify a reason for refusal and consequently you should give this due weight in your determination of the planning application.
- 6.7 Furthermore, secure cycle storage has been indicated and a condition would be requested for this provision prior to occupation.

7.0 REPRESENTATIONS

- 7.1 14 representations have been received objecting to the proposed development.
- 7.2 The above representations of objection have raised the following concerns:
- a) Parking
 - b) Noise
 - c) Sewer and drainage issues
 - d) Disruption
 - e) Overdevelopment
 - f) Detrimental effect on living conditions/ effects on health and wellbeing
 - g) Increase in litter and waste
 - h) Anti-social behaviour/ crime
 - i) Reduction in air quality
 - j) Increase in nitrates levels
 - k) Increase in crime rates

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 flexible use of the property for purposes falling within Class C4 (house in multiple occupation) (HMO) or Class C3 (dwellinghouse). 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 74 properties within a 50-metre radius of the application site, there are only 2 confirmed HMOs (Class C4) as shown in **Figure 4** 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 4.05%. This would be lower than the 10% threshold above which an area is considered to be imbalanced and in conflict with Policy PCS20.

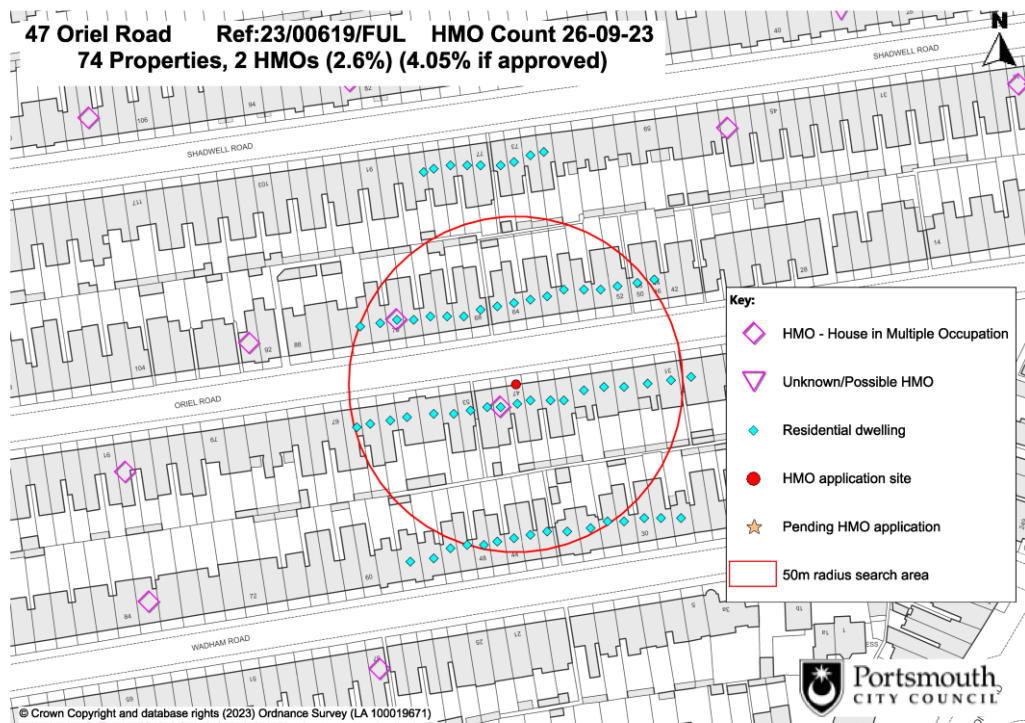


Figure 3 - Existing HMOs within 50m of the application site

- 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. Although the adjoining property at no. 49 has just gained planning permission for use as an HMO this proposal does not conflict with this guidance.
- 8.8 Having regard to the above, the proposal would comply with the aims and objectives of Policies PCS19 and PCS20 of the Portsmouth Plan (2012).
- 8.9 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 room 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 in **Table 1** below.

Room	Area Provided	Required Standard
Bedroom 1 (ground floor)	10m ²	10m ²
Bedroom 2 (first floor)	11m ²	10m ²
Bedroom 3 (first floor)	17.3m ²	10m ²
Bedroom 4 (first floor)	13.1m ²	10m ²
Bedroom 5 (second floor)	14.9m ²	10m ²
Bedroom 6 (second floor)	10m ²	10m ²
Ground floor shared wc	2.74m ²	1.17m ²
Living room (ground floor)	10.017m ²	Unrequired/additional
Communal Kitchen/Dining area (ground floor)	29m ²	34m ²
Ensuite bathroom 1 (ground floor)	2.74m ²	2.74m ²
Ensuite bathroom 2 (first floor)	2.74m ²	2.74m ²
Ensuite bathroom 3 (first floor)	2.74m ²	2.74m ²
Ensuite bathroom 4 (first floor)	2.74m ²	2.74m ²
Ensuite bathroom 5 (second floor)	2.74m ²	2.74m ²
Ensuite bathroom 6 (second floor)	2.74m ²	2.74m ²

* Excluding part of Bedroom 6 that was deemed to be unusable.

Table 1 - HMO SPD (Oct 2019) compliance

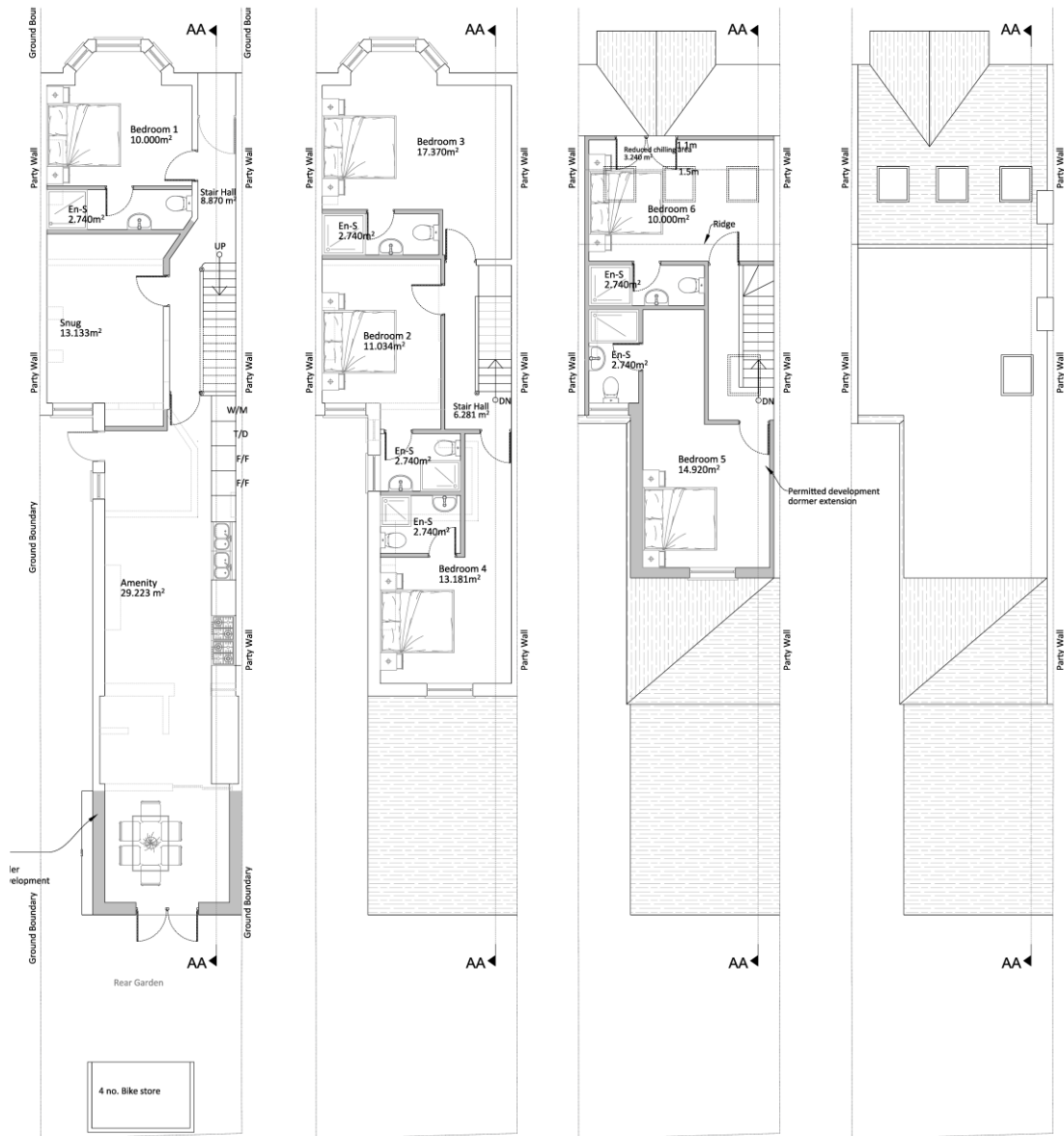


Figure 4 - Proposed Floorplan 1

- 8.11 Whilst the kitchen/dining area falls short of the minimum size standard for the proposed use by some 5 sq.m. it is considered that the additional living room makes up for the inadequacies of the kitchen/dining area. 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 and all habitable rooms would have good access to natural light.
- 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 either 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.
- 8.16 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 further HMO would not be significantly harmful.
- 8.17 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), would not be significantly different from the occupation of the property by between 3 and 6 unrelated persons as a house in multiple occupation.
- 8.18 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 two within a 50m radius) would not have any demonstrable adverse impact to wider amenity.
- 8.19 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.
- 8.20 Highways/Parking
- 8.21 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. The property has no off-street parking.
- 8.22 The C4 element of the proposal compared to the existing property only expects an extra half a parking space, to which neither the Highways Officer nor Planning Officer raises an objection. 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, 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.

8.23 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.

8.24 Waste

8.25 The storage of refuse and recyclable materials would remain unchanged, being located in the forecourt area, and an objection on waste grounds would not form a sustainable reason for refusal.

8.26 Impact on Special Protection Areas

8.27 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 flexible C3/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.

8.28 Community Infrastructure Levy (CIL)

8.29 The development would not be CIL liable as there would be no increase in the Gross Internal Area of the application property.

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

8.31 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.

8.32 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.

8.33 Other Matters raised in the representations

8.34 Concerns have been raised by neighbouring residents regarding the pressure the use would put on local services. However, having regard to the existing lawful use of the

property as a self-contained dwellinghouse, it is considered the use of the property would not have a significantly greater impact on local services than the existing use which could be occupied by a similar number of occupants.

- 8.35 As mentioned the external works are constructed under permitted development and therefore considerations against any loss of light or privacy would not be relevant.
- 8.36 Impact upon property values are not a material planning consideration.
- 8.37 Fire safety is not a consideration in such a planning application and would be appropriately managed via Private Sector Housing and Building Control.
- 8.38 All other objections are addressed within the report above or conditions below.

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) (2021).

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.

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 drawings - Drawing numbers: Floorplans - 112 PL04 Rev A; Side Elevations - 112 PL06 Rev A; and Elevations and Sections 112 - PL05 Rev A.

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.