

23/01139/FUL

WARD: EASTNEY & CRANESWATER

37 HENDERSON ROAD PORTSMOUTH PO4 9JD

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

Application Submitted By:

Mrs Carianne Wells
Applecore PDM Ltd

On behalf of:

Walker

RDD: 16.11.2023

LDD: 14.12.2023

1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee due to the number of objections (19) including an objection from Cllr Matthew Winnington

1.2 The main issues for consideration in the determination of the application/appeal 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, terraced dwellinghouse (Class C3) located on the northern side of Henderson Road as shown in **Figure 1** below, with Ringwood Road to the east. The dwellinghouse is set back from the road by a very modest front garden and to the rear of the property is an enclosed garden. The existing layout comprises of a lounge, a kitchen, a dining room, and a WC at ground floor level; three bedrooms and a bathroom at first floor level.

2.2 The application site is within a predominantly residential area characterised by rows of similar two-storey semi-detached and terraced properties with a similar visual style.



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. This will be facilitated by a loft conversion and ground floor rear extension, both under permitted development rights which the application site benefits from.

3.2 The proposed internal accommodation, as shown in **Figure 2** below, comprises the following:

- Ground Floor - Two bedrooms (each with a shower, toilet and handbasin ensuite), and a Kitchen/Dining room.
- First Floor - Three bedrooms (all with a shower, toilet and handbasin ensuite).

- Second Floor - One bedroom (with shower, toilet and handbasin ensuite), a shared shower room, and a study room.
- 3.3 The Applicant intends to exercise permitted development rights to construct a small rear extension, a new larger rear dormer extension within the main roof and new roof lights to the front roof slope (as shown 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 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 side/rear ground floor extension 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.

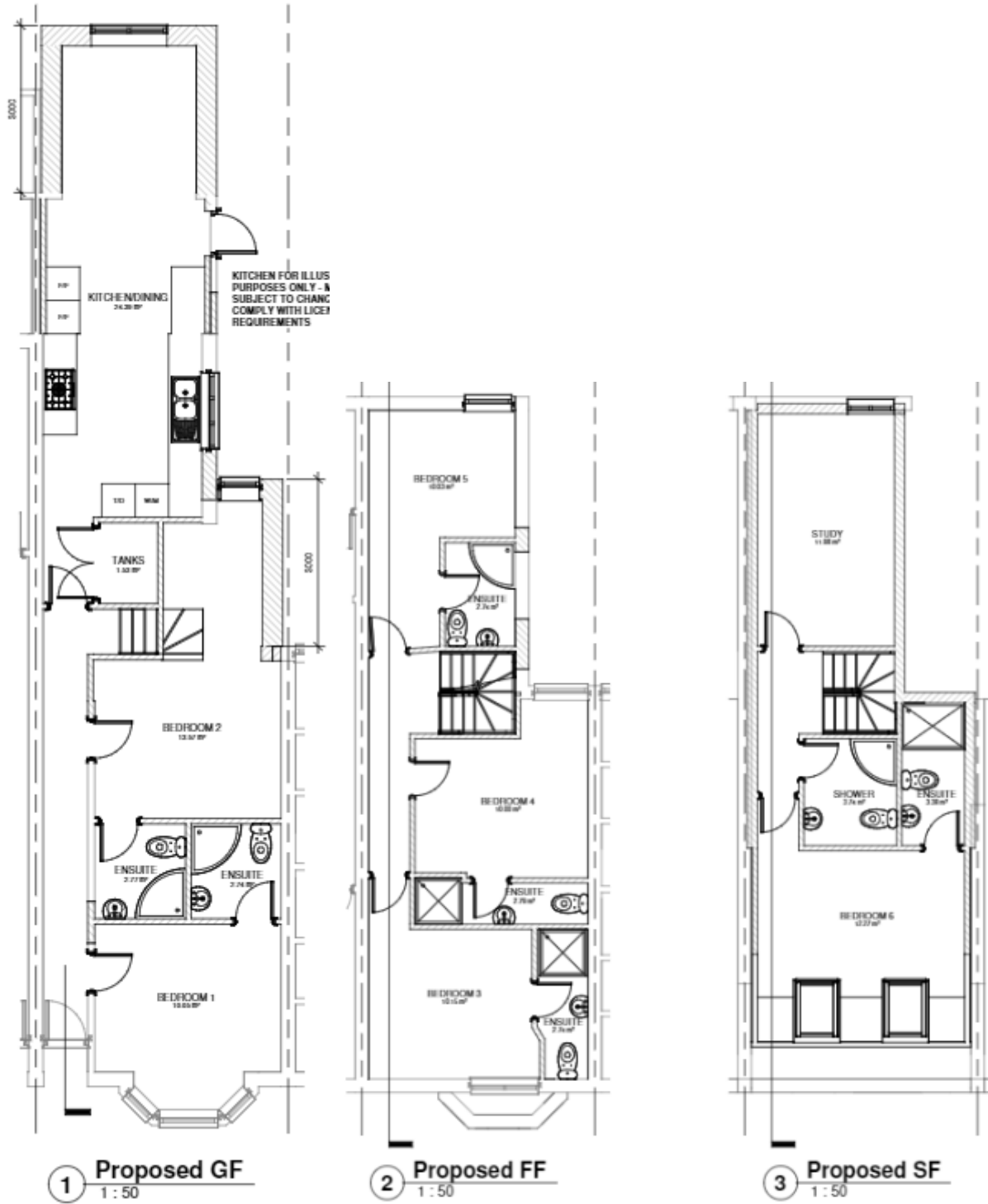


Figure 2 - Proposed plans

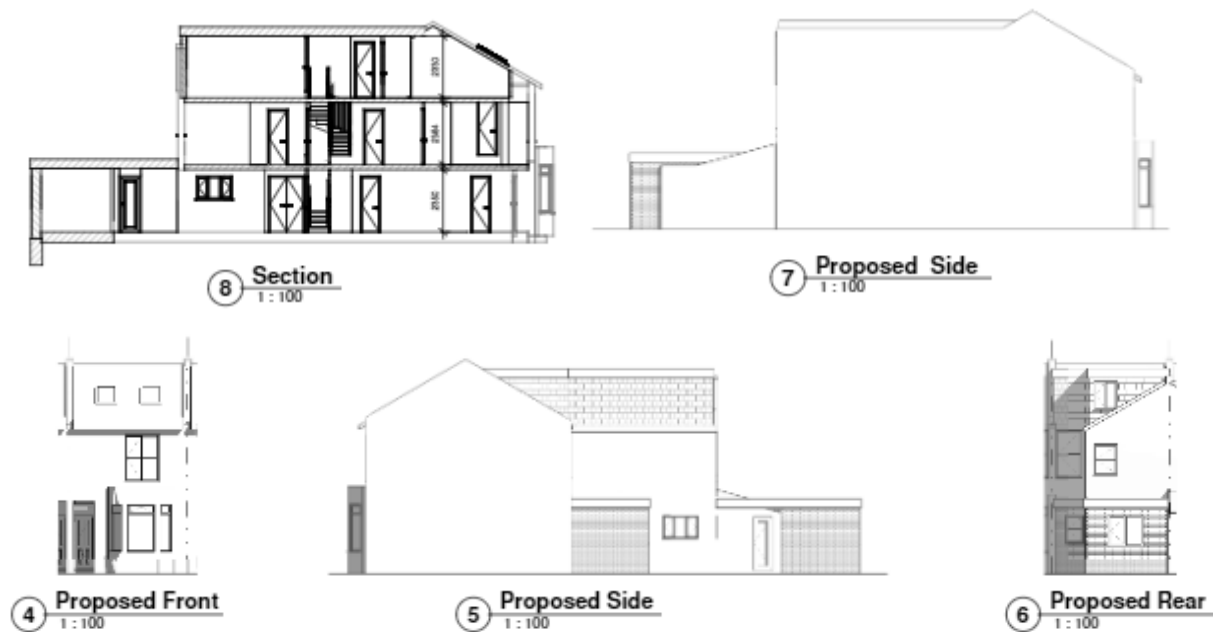


Figure 3 - Proposed Elevations

4.0 PLANNING HISTORY

4.1 None.

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 Interim Nutrient Neutral Mitigation Strategy (2022)
- The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD').

6.0 CONSULTATIONS

- 6.1 Public Sector Housing - 1 The new standards require a room to have a usable space that is measured from the floor to ceiling height of 2.3m or over for at least 75% of the room. Based on the drawings it is unclear if the usable space of bedroom 6 reaches this requirement. 2 The property will require mandatory licencing

Officer note - as C4 use can be between 3 and 6 unrelated occupants, the applicant is advised about the licensing requirements; however this would not be a material planning consideration for this application

7.0 REPRESENTATIONS

- 7.1 Nineteen representations have been received objecting to the proposed development, and one from Cllr Matthew Winnington.

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

- a) Loss of family home from the existing housing stock;
- b) Increase in noise and disturbance;
- c) Increase in crime and anti-social behaviour;
- d) Lack of car parking provision leading to an increase in traffic and exacerbation of existing on-street parking problems;
- e) Undue strain on local services and infrastructure, including the sewage, drainage, waste management and Doctors/Dentists
- f) Concerns about impact on community
- g) Negative affect on property prices
- h) Extension will block light to neighbouring property.
- i) Fire safety

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 62 properties within a 50-metre radius of the application site, there are 2 confirmed HMO (Class C4), 46 Eastney Road and 31 Henderson Road, and the application property No 37 Henderson Road, 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 confirmed HMOs within a 50-metre radius of the application property the proposal would result in the percentage of HMOs within the area as 4.8%. This would be lower than the 10% threshold above which an area is considered to be imbalanced and in conflict with Policy PCS20.

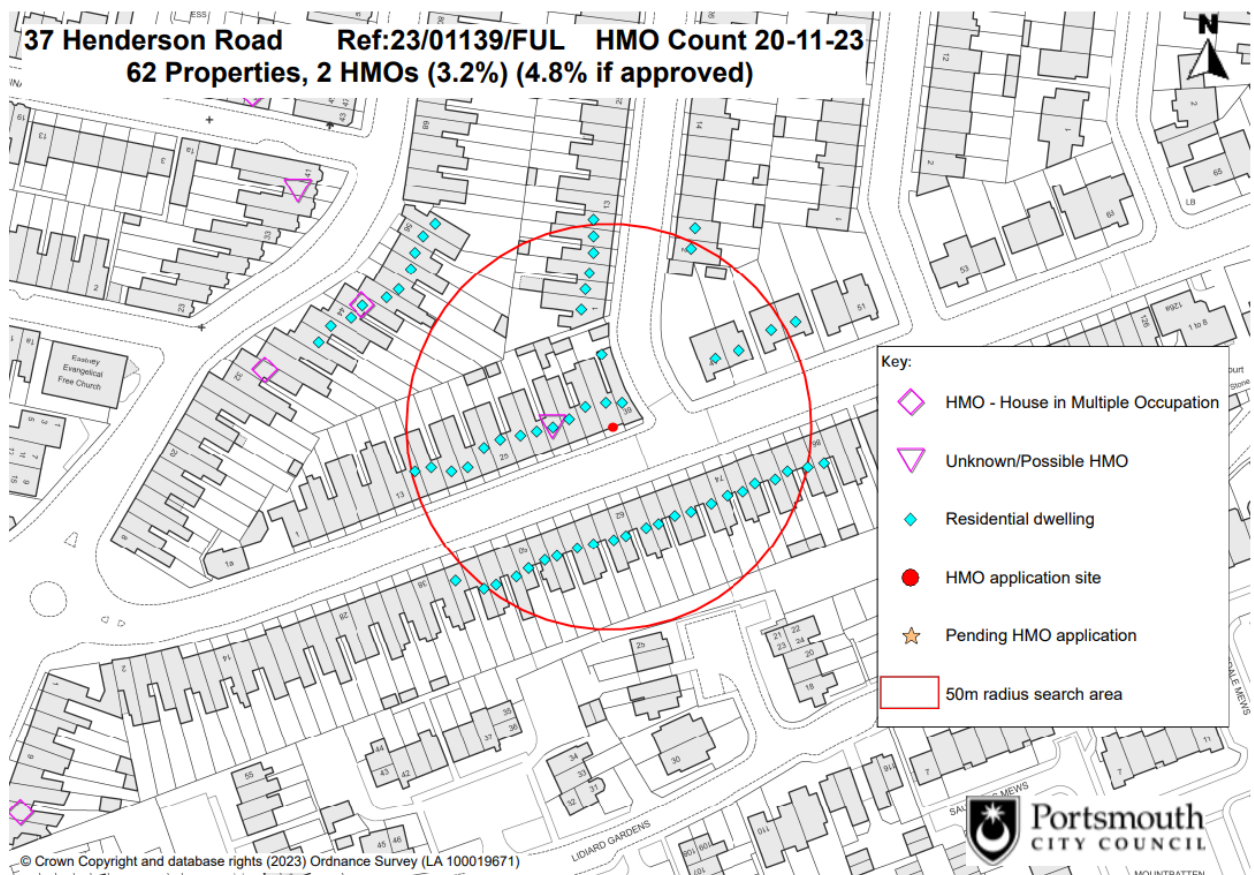


Figure 4 - Existing HMOs within 50m of the application site

- 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 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 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 in **Table 1** below.

Room	Area Provided	Required Standard
Bedroom 1 (ground floor)	10.05m ²	6.51m ²
Bedroom 2 (ground floor)	13.57m ²	6.51m ²
Bedroom 3 (first floor)	10.15m ²	6.51m ²
Bedroom 4 (first floor)	10m ²	6.51m ²
Bedroom 5 (first floor)	10.03m ²	6.51m ²
Bedroom 6 (second floor)	12.27m ²	6.51m ²
Communal Kitchen/Dining area (ground floor)	24.39m ²	22.5m ² as all bedrooms exceed 10m ²
Ensuite bathroom 1 (ground floor)	2.74m ²	2.74m ²
Ensuite bathroom 2 (ground floor)	2.77m ²	2.74m ²
Ensuite bathroom 3 (first floor)	2.74m ²	2.74m ²
Ensuite bathroom 4 (first floor)	2.79m ²	2.74m ²
Ensuite bathroom 5 (first floor)	2.74m ²	2.74m ²
Ensuite bathroom 6 (second floor)	3.38m ²	2.74m ²
Tanks room (ground floor)	0.98m ²	Not required/ additional
Study (second floor)	11.98m ²	Not required/ additional
Shower room (second floor)	3.74m ²	Not required/ additional

Table 1 - HMO SPD (Oct 2019) compliance

8.11 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 combined living/dining room. 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. There is also a good sized room proposed in the second floor loft conversion in the form of a study, which would also be able to provide additional communal living 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.

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 Concerns have been raised in the representations regarding a potential increase in crime and anti-social behaviour as a result of the proposed change of use. However, the Council does not have any evidence to suggest that HMOs result in higher levels of crime or anti-social behaviour than a Class C3 dwellinghouse.
- 8.18 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.
- 8.19 Through the occupants possibly not acting as a collective and therefore cooking meals and carrying out other activities on an individual basis, it could be regarded that general activity could increase with more coming and goings to the site and within the site. However, the proposal 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.
- 8.20 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.
- 8.21 Highways/Parking
- 8.22 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 submitted existing plans show that the property currently has 3 bedrooms. The property has no off-street parking.
- 8.23 The C4 element of the proposal compared to the existing 3 bedroomed property would not expect any increase in the current required level of off-road parking spaces. As the level of occupation associated with an 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.

- 8.24 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.
- 8.25 Waste
- 8.26 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.
- 8.27 Impact on Special Protection Areas
- 8.28 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.
- 8.29 Community Infrastructure Levy (CIL)
- 8.30 The development would not be CIL liable as there would be no increase in the Gross Internal Area of the application property.
- 8.31 Human Rights and the Public Sector Equality Duty ("PSED")
- 8.32 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.
- 8.33 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.
- 8.34 Other Matters raised in the representations.
- 8.35 Concerns have been raised by neighbouring residents regarding the pressure the use would put on local services. However, having regard again 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.

- 8.36 As mentioned above the rear dormer and rear extension accords with Permitted Development and therefore the Local Planning Authority cannot give consideration towards the impact of the built form on the neighbour amenity.
- 8.37 Objections have been received regarding the increase in the risks of fires as a result of the change of use. It is adjudged that the risk of fire is no greater under C4 use than C3, however smoke detectors and other fire suppression tools are requirements under various legislation including HMO licencing and the Housing Act 2004.
- 8.38 Objections have been received that centre around parking issues. This matter is discussed above in greater length. In summary, a lack of parking could not be defended at appeal due to policy having the same parking requirement for the proposed C4 use and the current C3 use.

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:
- BLOCK PLAN - Dwg No. TQRQM23108112706170
 - DUAL USE PLAN - Dwg No. PG.8139 · 23 · 4 Rev B
 - 4 CYCLE STORAGE SHED - Dwg No. 1

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.

External works as shown:

- 4) Prior to first occupation of the property as a House in Multiple Occupation within Use Class C4, the building operations indicated within approved drawing numbers: namely the construction of the single storey rear extension, and dormer window 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).

Informative

- a) 2 x 360 litre bins are required for a 6 bed HMO. The applicant will need to purchase these bins directly from Portsmouth City Council Waste Management prior to the tenants moving in.
- b) The dual Use Classes C3/C4 (dwellinghouses/3-6 person HMO) hereby permitted allows the property to be used for either use interchangeably, overcoming the need for a new planning permission each time a material change of use from Class C3 to C4 occurs. It should be noted that 10 years from the date of this permission, the flexibility currently afforded by Schedule 2, Part 3, Class V of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ceases and the use of the property at that time becomes the singular lawful use.

Should you wish the property to continue to be used as a dual Class C3/C4 use after the 10-year period, you would need to make a further planning application.

Please inform the local planning authority of the use of the property applicable at the expiry of the 10-year period.

- c) Please be aware that an HMO license may be required. HMO licenses are assessed against new standards that may differ to those used in the Planning process and you are therefore advised to check the licensing requirements and standards prior to occupation. For more information, and to find out about our landlord accreditation scheme please contact the City Council's Private Sector Housing Team using the details below:

Email: housing.privatesector@portsmouthcc.gov.uk

Postal address: Private Sector Housing, Portsmouth City Council, Civic offices, Guildhall Square, Portsmouth, PO1 2AZ.

Phone Number: 023 9284 1659