

6 COPNOR ROAD PORTSMOUTH PO3 5AQ

CHANGE OF USE FROM DWELLINGHOUSE (CLASS C3) TO HOUSE IN MULTIPLE OCCUPATION (CLASS C4) (RESUBMISSION OF 23/00048/FUL)

[23/01414/FUL | Change of use from dwellinghouse \(Class C3\) to house in multiple occupation \(Class C4\) \(resubmission of 23/00048/FUL\) | 6 Copnor Road Portsmouth PO3 5AQ](#)

Application Submitted By:

Mr Ilkkan Bellikli
Go To Services

On behalf of:

Mr Mohammed Islam

RDD: 14th November 2023

LDD: 29th January 2024

1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee at the request of Councillor Sanders.

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

- Principle of development
- Standard of accommodation
- Impacts on amenity of the neighbouring residents
- Parking
- Waste
- Impact on the Solent Protection Area
- Community Infrastructure Levy (CIL)
- Human Rights and the Public Sector Equality Duty ("PSED"); and
- Any other material considerations.

1.3 Site and surroundings

1.4 The application site is a two-storey terraced dwellinghouse on the eastern side of Copnor Road towards its southern end. The dwellinghouse has a small front forecourt and an enclosed garden at the rear. The existing layout comprises of two lounges, kitchen-dining room, understairs store and shower room at ground floor level; three bedrooms including one ensuite and a bathroom at first floor level. The property is already in use as an HMO, without planning permission.

1.5 The application site is within a predominantly residential area. There are two HMOs within a 50m radius, a property subdivided into two flats at 2 Copnor Road, and some other former terraced houses sub-divided into two flats.



Figure 1 Site Location Plan

1.6 The Proposal

- 1.7 The Applicant has sought planning permission for the change of use of the dwelling from the current lawful use as a C3 dwellinghouse to C4 HMO. This change in occupancy would involve the repurposing of internal rooms but no external operational development forms part of this application.
- 1.8 The proposed accommodation, as shown in Figure 2 below, comprises the following:
- Ground floor: two bedrooms, kitchen/dining/lounge, shower room
 - First floor: three bedrooms, including one ensuite, bathroom
- 1.9 The proposed layout addresses the room size deficiencies identified in the previous application (23/00048/FUL), which was refused planning permission. Principally, the under stairs store and access to it has been incorporated into the enlarged kitchen/dining/lounge. Also, the bath/shower rooms and WC have been amended.

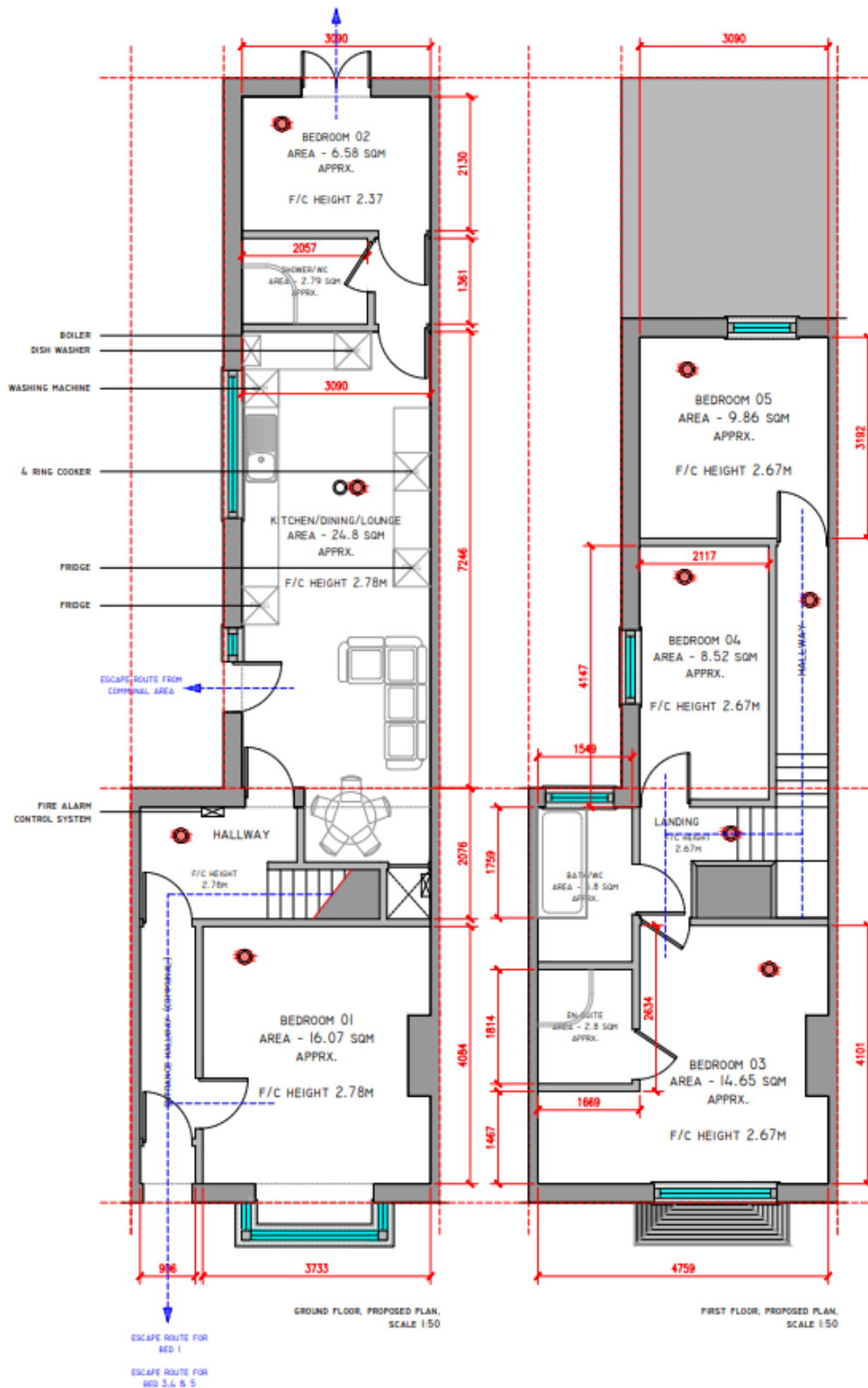


Figure 2 Proposed floor plans

1.10 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.

1.11 Planning History

1.12 23/00048/FUL - Change of use from dwellinghouse (Class C3) to house in multiple occupation (Class C4) - refused on 24.06.2023 under delegated powers due to insufficient sizes of the combined living space, ground floor shower room, first floor bathroom and the ensuite serving bedroom 3 as per HMO SPD 2019.

2.0 POLICY CONTEXT

- 2.1 In addition to the aims and objectives of the National Planning Policy Framework (2023), 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 property requires mandatory HMO licencing, and the mandatory licence for six occupants was issued to the applicant on 10th August 2023. The licence application was made in October 2022 and the old communal room standards were applied.
- 3.2 Equality and Diversity Officer
- 3.3 I am sympathetic to the situation, however the applicant is not directly infringing upon the disabled neighbour's rights, or the right to peacefully enjoy their home, therefore there is no issue of discrimination. If there are issues relating to noise, this can be addressed by contacting the environmental health team within PCC or, in worst case scenario, by contacting the police.
- 3.5 Highways
No objection. Proposal would not have a material impact on highway safety.

4.0 REPRESENTATIONS

- 4.1 3 letters of representation were received objecting to the proposal. The concerns raised can be summarised as follows:
- Sandwiching residents between HMOs and flat conversions
 - Impact on amenity due to anti-social behaviour and crime
 - Pressures on local amenities and facilities
 - Impact on the life of a person with disabilities (special educational needs) living next door: concerns about domestic violence and the number of local HMOs, sensitivity to noise. Each HMO occupant has their own room, then communal space, meaning they are playing music, loud movies etc in all rooms often as it's not a family home, they are not gathered in one place to watch tv.
 - If granted, the proposal will exceed the planning 10% rule on HMOs within a 50m radius of other HMOs
 - Impact on parking
 - Concerns about the room sizes in the current proposal
 - The property appears to be used as an HMO presently

Non-planning considerations

- Devaluation of neighbouring properties

5.0 COMMENT

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

- Principle of development
- Standard of accommodation
- Impact on residential amenity of the neighbours
- Parking
- Waste
- Impact on the Solent Protection Area
- Community Infrastructure Levy (CIL)
- Human Rights and the Public Sector Equality Duty ("PSED"); and
- Any other matters raised in the representations.

5.2 Principle of development

5.3 Permission is sought for the use of the property for purposes falling within 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'.

5.4 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.

5.5 Based on the information held by PCC, of the 43 properties within a 50-metre radius of the application site, there are only 2 confirmed HMOs (Class C4) as shown below (4.65%). 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.

5.6 Following further investigations, no additional HMOs have been uncovered by the Case Officer. Including the application property if approved, the proposal would bring the percentage of HMOs within the area up to three: 6.98%. This would be lower than the 10% threshold above which an area is considered to be imbalanced and in conflict with Policy PCS20.

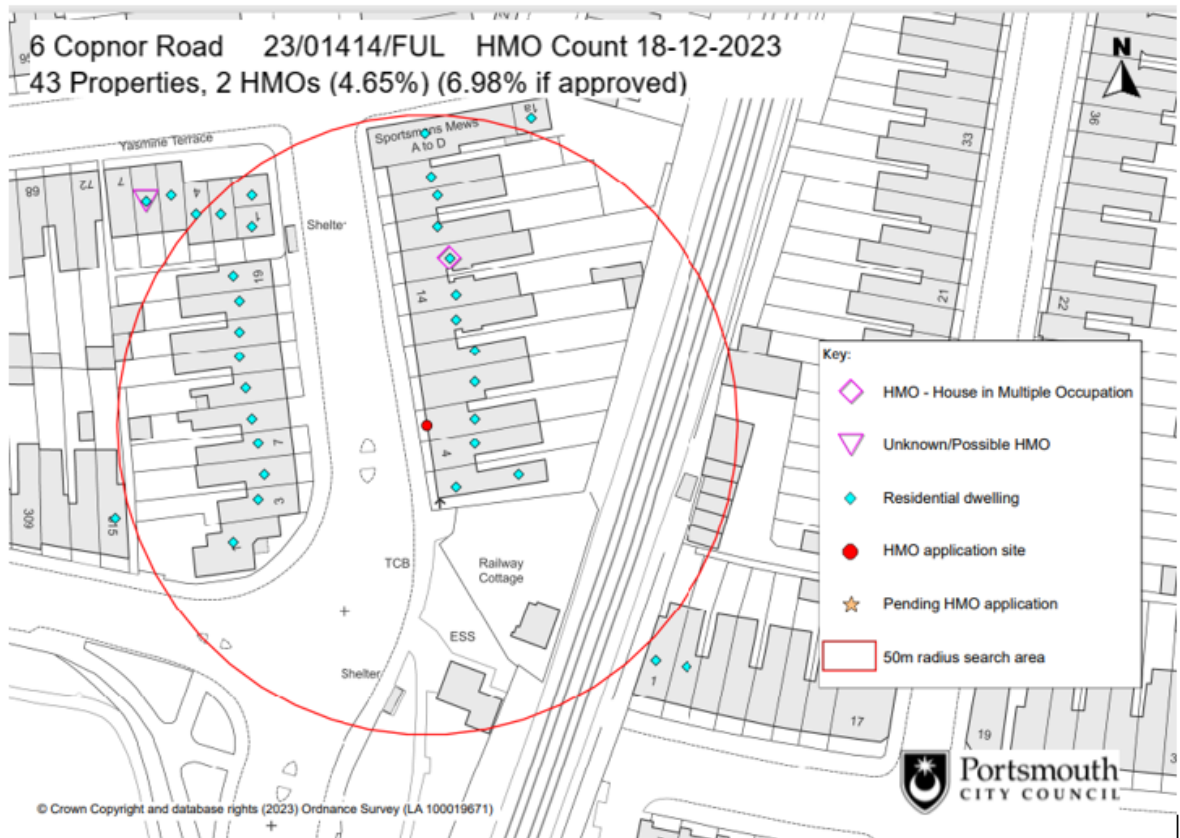


Figure 3 Existing HMOs within 50m radius of the application site

- 5.7 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 with this guidance caused by this proposal.
- 5.8 Having regard to the above, the proposal would comply with the aims and objectives of Policies PCS19 and PCS20 of the Portsmouth Plan (2012).
- 5.9 Standard of accommodation
- 5.10 The application seeks 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 (msq)	Required Standard (msq)
Kitchen/Dining/Lounge	24.8	24
Bedroom 1	16.07	6.51
Bedroom 2	6.58	6.51
Bedroom 3	14.65	6.51
Bedroom 4	8.52	6.51
Bedroom 5	9.86	6.51
En-suite serving bedroom 3	2.8	2.74
GF shower room	2.79	2.74
1F bathroom	3.8	3.74

- 5.11 To re-cap, the previous application was refused planning permission because some of the rooms did not meet the SPD standards - the communal room, the ensuite, the bathroom, and the shower room. With proposed internal re-arrangements, however, now all of the rooms accord with the standards as set out within the HMO SPD (2019). Furthermore, all habitable rooms would have adequate layout and good access to natural light. Officers on site have confirmed that the understairs store to be incorporated into the communal room has a ceiling height exceeding head height. Lastly, to be clear, the SPD standards can only be met for the property as a Class C4 HMO with a maximum occupation by five persons, therefore a condition is attached to provide such a limit. This is notwithstanding the HMO license for six occupiers. The Applicant is aware of, and accepts, the limit of five persons a planning consent would impose.
- 5.12 Impact on residential amenity of the neighbours
- 5.13 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 three and five unrelated persons as a house in multiple occupation.
- 5.14 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. PCC's report on Shared Housing in Portsmouth: An Assessment of Demand, Supply and Community Impacts (2012) provides an overview of the negative impacts of HMO concentrations on local communities and point 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 more HMO would not be significantly harmful.
- 5.15 Having regard to this material consideration, the impact of the change of use would not be significant on residential amenity.
- 5.16 Parking
- 5.17 Properties in use class C4 with four or more bedrooms are required to provide two parking spaces which is the same amount as for properties in use as class C3 with four or more bedrooms (Parking Standards SPD 2014). The proposal has no off-street parking, which is no change from the fallback position.
- 5.18 The proposed use describes occupation by up to five people, while a C3 dwellinghouse could be occupied by more or less residents, and as such it is not considered to represent an increase in overnight stays. The proposal is thus not considered to have a demonstrable impact on the parking need over and beyond the existing. Therefore, it is considered that refusal on a lack of parking is not reasonable or defensible and refusal could not be sustained on appeal. It should be noted that the property could be occupied by a large family with adult children, each potentially owning a separate vehicle, or even more than one vehicle per person.
- 5.19 The Parking Standards SPD (2014) also specifies the expected level of cycle parking that should be provided for residential developments. A 4+ bedroom property has an expected demand for 4 cycle parking spaces. A bicycle storage facility for five bikes has been indicated in the back garden and this would be secured through a condition.
- 5.20 Waste
- 5.21 The storage of refuse and recyclable materials would be located in the forecourt area, it is considered that the amount of waste/ refuse would be similar for a larger family living at the same Class C3 dwellinghouse 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.

5.22 Impact on Special Protection Areas

- 5.23 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 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.

5.24 Community Infrastructure Levy (CIL)

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

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

- 5.27 PCC 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.

- 5.28 Under section 149 of the Equality Act 2010, PCC must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Furthermore, PCC 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.

- 5.29 A neighbour has objected to the application, expressing concern about her daughter's special needs, and how noise and concerns about violence could or would affect her significantly. Disability is one of the protected characteristics under the Equality Act 2010, and so it falls to the local planning authority to have due regard to its public sector equality duty in the context of this application. In particular (but without limitation), the local planning authority must consider taking any steps to meet the needs of the disabled that are different needs to those without the protected characteristic of disability, and to remove or minimise any disadvantages suffered by a person with disabilities that are not suffered by others. Noise, and anti-social behaviour or violence, are not limited by any means at all to HMO occupation and may result from the occupation of a property by a single person or family group. And any such effects, resulting from whichever occupation, could adversely affect a neighbour's amenity whether that neighbour has a protected characteristic or not. As such, it is not considered that there is sufficient justification to withhold planning consent on this matter. Therefore, 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.

5.30 Other matters raised in the representations

- 5.31 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.

- 5.32 Fire safety is not a consideration in such a planning application and would be appropriately managed via Private Sector Housing and Building Control.

6.0 CONCLUSION

- 6.1 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

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 - 0268/6COPN-02
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.

Maximum occupancy:

- 4) The property hereby granted planning consent as a Class C4 HMO shall not be occupied by more than five persons.
Reason: a greater number of occupants would not be provided with an adequate standard of living accommodation, as the required size of combined living space would not be provided, and so the development would fail to comply with the HMO Supplementary Planning Document 2019 and with Policy PCS23 of the Portsmouth Plan 2012.