

29 GREENWOOD AVENUE PORTSMOUTH PO6 3NP

**CHANGE OF USE FROM DWELLINGHOUSE (CLASS C3) TO PURPOSES FALLING WITHIN CLASSES C3 (DWELLINGHOUSE) OR C4 (HOUSE IN MULTIPLE OCCUPANCY) (RESUBMISSION OF 23/00875/FUL)**

[23/01496/FUL | Change of use from dwellinghouse \(Class C3\) to purposes falling within Classes C3 \(dwellinghouse\) or C4 \(House in Multiple Occupancy\) \(Resubmission of 23/00875/FUL\) | 29 Greenwood Avenue Portsmouth PO6 3NP](#)

**Application Submitted By:**

Mrs Carianne Wells  
Applecore PDM Ltd

**On behalf of:**

Ball  
Oliverball Property Ltd

**RDD:** 29th November 2023

**LDD:** 24th January 2024

**1.0 SUMMARY OF MAIN ISSUES**

- 1.1 The application is brought before Planning Committee due to the number of objection comments received (9).
- 1.2 The primary overarching consideration of this application is whether the previous reason for refusal on the initial application for HMO use has been overcome. The general issues for consideration in the determination of the application 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.

**Preliminary Matter:**

- 1.3 It is understood that the HMO use has commenced unlawfully, and the internal layout reflects the previously refused scheme. The committee should be aware that these matters are not material to the current application, which has an altered layout to that previously refused, and that they should only consider the current application on its merits.
- 1.4 An appeal to the Planning Inspectorate with regards to the refused application has been submitted. A decision is not expected for some time and as such, this should not affect the consideration of this current application.
- 1.5 The Council's Planning Enforcement are aware of the situation and will continue to monitor the situation. Formal enforcement action will be considered where necessary upon determination of the current application and the live appeal.

## **2.0 SITE AND SURROUNDINGS**

- 2.1 The application relates to a two-storey, semi-detached dwellinghouse (Class C3) located on the northern side of Greenwood Avenue. The dwellinghouse is set back from the road by a front forecourt and to the rear of the property is an enclosed garden, accessible from the front by a side driveway. The existing layout comprises of a lounge and kitchen at ground floor level and three bedrooms and a bathroom at first floor level.
- 2.2 The application site is within a predominantly suburban residential area, there are a variety of styles of properties in the area which are predominantly two-storey.

## **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 in five bedrooms. The application also involves some minor operational development, involving the reconfiguration of the fenestration on the front elevation and the relocation of the front entrance door to the side elevation.
- 3.2 The proposed internal accommodation, as shown in Figure 4 below, comprises the following:
- Ground Floor - 4 bedrooms (each with a shower, toilet and handbasin ensuite), lounge;
  - First Floor - 1 bedroom (with a shower, toilet and handbasin ensuite), a kitchen/diner and a utility room (washing machine and tumble dryer)
- 3.3 The Applicant has constructed a single storey rear extension under permitted development (under prior approval application 23/00038/GPDC), as shown in the drawing below, to facilitate the enlargement of the property before undertaking the change of use. The extensions and alterations were completed under permitted development, a right that is available 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. A Planning Officer visited the site and confirmed that the rear extension falls within the tolerances of permitted development.

## **4.0 PLANNING HISTORY**

- 4.1 23/00038/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 3.2m. (*Prior Approval Not required*)
- 4.2 23/00875/FUL: Change of use from dwellinghouse (Class C3) to purposes falling within Classes C3 (dwellinghouse) or C4 (House in Multiple Occupancy) (*Refused for the following reason*):

*The proposal, by reason of the configuration and location of communal rooms, would fail to provide a good standard of living accommodation for occupiers and represent an over intensive use of the property. The proposal is therefore contrary to Core Planning*

- 4.3 This refusal is now the subject of an appeal (Ref 3338328) submitted on 7 February 2024. It can be noted that this previous application included a notably different layout and an additional bedroom than the current application.

## **5.0 POLICY CONTEXT**

### **5.1 Portsmouth Plan (2012)**

- 5.2 In addition to the aims and objectives of the National Planning Policy Framework (2023), 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 2023)
- 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. **No objections are raised with regards to the layout or the internal configuration.**

- 6.2 Highways Engineer - Given the small scale of the development, I am satisfied that **the proposal would not have a material impact on the local highway network.**

- 6.3 Portsmouth City Councils Parking SPD gives the expected level of vehicle and cycle parking within new residential developments. The requirement for a 3 bedroom dwelling is 1.5 vehicle spaces and 2 cycle spaces, this compared with the requirement for a 5 bedroom HMO is 2 spaces and 4 cycle spaces.

## **7.0 REPRESENTATIONS**

- 7.1 Representations from 10 addresses have been received objecting to the proposed development.

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

- a) Parking impacts;
- b) Loss of family housing;

- c) Strain on public services;
- d) Noise concerns;
- e) Fire safety concerns;
- f) Impact on family character of the area;
- g) Anti-social behaviour;
- h) Number of HMOs within the area; and
- i) Lack of account for local views in decisions.
- j) Developers fund the Tory Party, so are likely to be favoured
- k) Previous reason for refusal not overcome
- l) Elderly residents on the street
- m) Operational development out of character with the street scene

## **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 As previously mentioned, the overarching issue is whether the previous reason for refusal has been overcome. In principle, and subject to a restriction of the occupancy, the intensity of the use has been reduced due to the reduction in the number of bedrooms from 6 to 5 (17%) and therefore this has been addressed. The reduction in bedrooms and alteration in design has resulted in an internal layout which provides far more space in the communal kitchen/diner area, in addition to the ground floor lounge area, which was the main area of concern on the previous application. Therefore, it is considered that the previous reason for refusal has been overcome. Matters other than those contained within the previous reason for refusal, while still pertinent to this application, could not be reasonably used as a reason for refusal on this application if they were previously considered to be acceptable on the previous application.
- 8.4 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'.
- 8.5 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.
- 8.6 Based on the information held by the City Council, of the 27 properties within a 50-metre radius of the application site, there are no other HMOs 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.

- 8.7 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 3.7%. 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

- 8.8 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.
- 8.9 Having regard to the above, the proposal would comply with the aims and objectives of Policies PCS19 and PCS20 of the Portsmouth Plan (2012).
- 8.10 Standard of accommodation
- 8.11 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)	11.58m <sup>2</sup>	10m <sup>2</sup>
Bedroom 2 (ground floor)	10.83m <sup>2</sup>	10m <sup>2</sup>

Bedroom 3 (ground floor)	12.17m <sup>2</sup>	10m <sup>2</sup>
Bedroom 4 (ground floor)	12.05m <sup>2</sup>	10m <sup>2</sup>
Bedroom 5 (first floor)	12.00m <sup>2</sup>	10m <sup>2</sup>
Utilities room	4.07m <sup>2</sup>	n/a
Communal Kitchen/Dining area (ground floor)	22.80m <sup>2</sup>	15.5m <sup>2</sup> , as all 5 bedrooms meet or exceed 10m <sup>2</sup>
Lounge (ground floor)	15.42m <sup>2</sup>	Not required as a combined Kitchen/Dining area is proposed
Ensuite bathroom 1 (ground floor)	2.93m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 2 (first floor)	3.20m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 3 (first floor)	2.74m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 4 (first floor)	2.95m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 5 (second floor)	2.78m <sup>2</sup>	2.74m <sup>2</sup>

Table 1 Schedule of Floor sizes

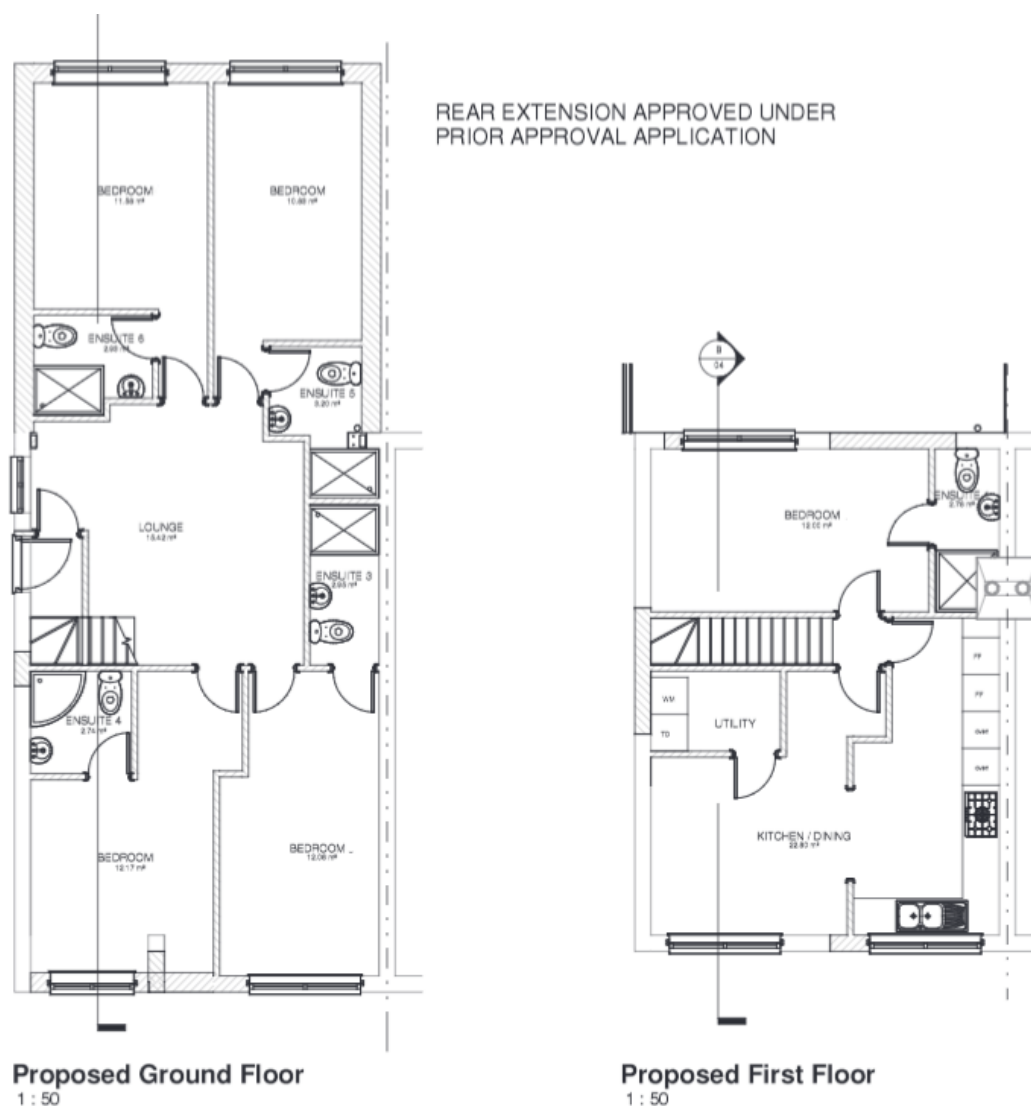


Figure 4 Proposed Floorplans

- 8.12 All of the rooms 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. Furthermore, all habitable rooms would have good access to natural light. The revised layout of the kitchen/dining area, including the increase in floorspace results in an area which is considered highly usable.

- 8.13 While slightly unconventional that the kitchen/dining area is upstairs, this is no issue with this configuration in policy terms, and it is considered that the layout of the property would provide a good standard of living for future occupiers in accordance with Policy PCS23 of the Portsmouth Plan. It is considered that the Ground Floor layout, which involves 4 of the 5 bedrooms opening directly into the lounge is a positive approach as it would encourage interaction and socialising between residents.
- 8.14 While the proposed rooms sizes are considered adequate for the suggested 5 single occupancy bedrooms it is not considered adequate for 6 occupants, either by way of the provision of communal space or through allowing dual occupation of a bedroom. A condition is therefore recommended to limit the occupation to 5 residents.

#### 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 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.
- 8.18 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.

#### 8.19 External Alterations

- 8.20 The alterations to the fenestration would result in a change in appearance to the front elevation. While most properties in the immediate vicinity are uniform in their front fenestration, most have had myriad alterations of differing levels and natures, and as such, there is not a strong sense of uniformity in the area. The only real sense of uniformity is resultant from the form, mass and siting of the buildings. As such, it is considered that the operational development is acceptable in design terms.

#### 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. The expected level of parking demand for a Class C3 dwellinghouse with three bedrooms (as existing) is 1.5 off-road spaces, a minor difference. The property has potential for off-street parking but it is not clear how many vehicles it could accommodate.

- 8.23 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.
- 8.24 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 garden 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 that on its own requires planning permission.
- 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 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 the external works would be Permitted Development and therefore considerations against any loss of light or privacy would not be relevant.

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 It is not considered that the proposed use would result in any demonstrable increase in anti-social behaviour.

8.39 All comments received are given full consideration within the assessment and determination process, but ultimately decision must be made in accordance with Local and National Policy.

8.40 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

#### **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: PG.8107 - 12 - 04 REV A - DUAL USE PLAN REV A, 4 CYCLE STORAGE SHED, PROPOSED BLOCK PLAN, PROPOSED SITE PLAN - 1-500

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.

**Restriction on Occupation:**

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.