

16 SHADWELL ROAD PORTSMOUTH PO2 9EJ

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

[23/00182/FUL | RETROSPECTIVE APPLICATION FOR CHANGE OF USE FROM DWELLINGHOUSE \(CLASS C3\) TO PURPOSES FALLING WITHIN DWELLINGHOUSE \(CLASS C3\) OR HOUSE IN MULTIPLE OCCUPATION \(CLASS C4\) | 16 SHADWELL ROAD PORTSMOUTH PO2 9EJ](#)

Application Submitted By:

Mr Steve Walker
Parkers Design

On behalf of:

Mr Suki Power

RDD: 10th February 2023

LDD: 26th April 2023

1.0 SUMMARY OF MAIN ISSUES

- 1.1 The application is brought before Planning Committee due to the number of objection comment received (6). There was also a call-in request from Scott Payter-Harris, who stated he did not believe enough information has been made public about the space standards for this HMO, and that the HMO data count appeared late online. This request was made while Scott Payter-Harris was still a councillor, although he no longer is a councillor, as of May 2023.
- 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, mid-terrace dwellinghouse (Class C3) located on the northern side of Shadwell 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 previous layout comprised of a lounge, dining room, conservatory bathroom and kitchen, at ground floor level; four bedrooms, 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. 14 of the properties within the 50m radius have been subdivided into flats, the closest of which is 18 Shadwell Road.

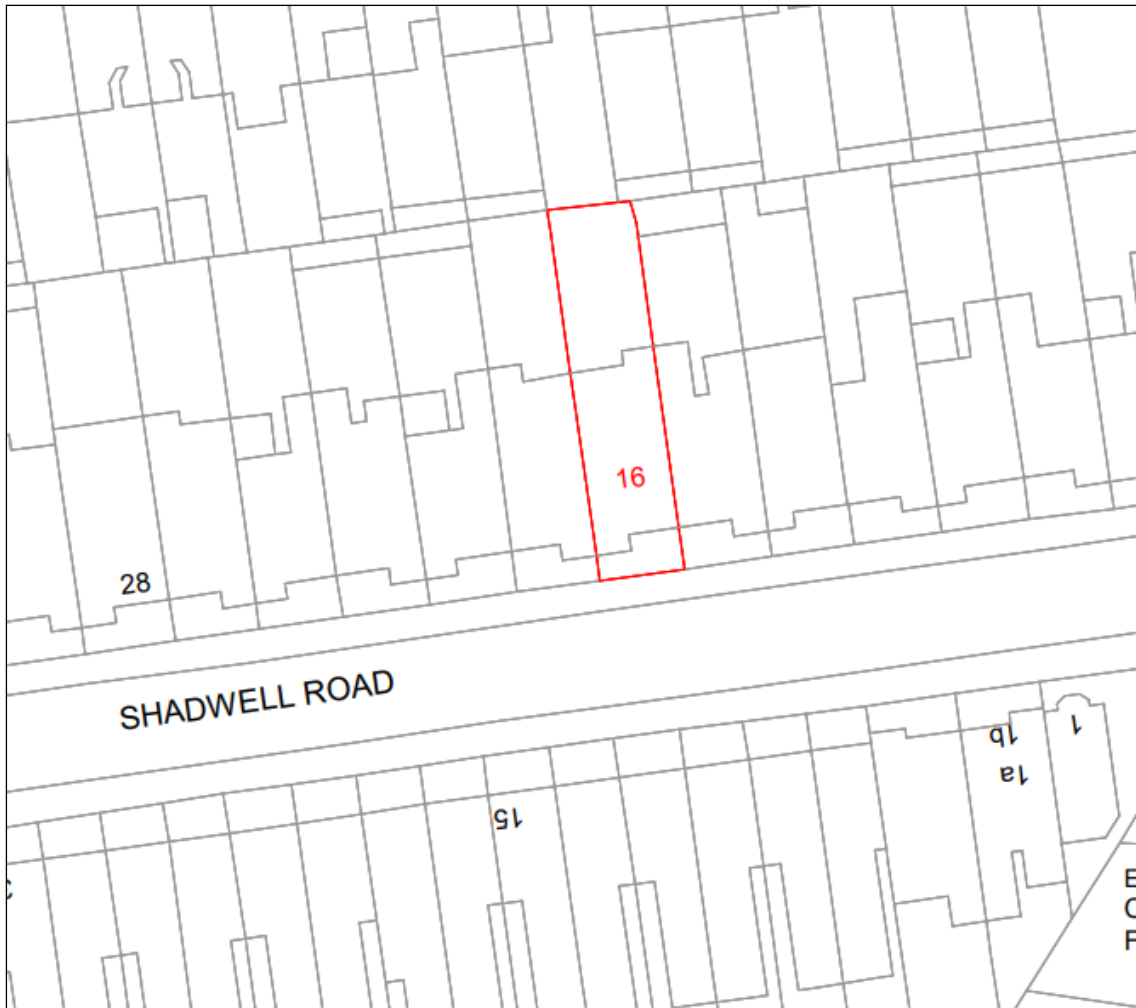


Figure 1 Site Location Plan

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 internal accommodation, as shown in Figure 4 below, comprises the following:

- Ground Floor - One bedroom, bathroom; Kitchen, Living room and a conservatory.
- First Floor - Three bedrooms (one with a dressing room) and a bathroom (with a toilet and handbasin ensuite).

4.0 PLANNING HISTORY

4.1 None relevant.

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 - Shadwell Road is a residential road with bus stops and limited amenities in the close vicinity. 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 4 bedroom HMO is 2 spaces and 4 cycle spaces.

6.4 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. However it is considered that the addition of one bedroom would be unlikely to significantly increase parking pressure that would cause a highway safety impact.

6.5 Whilst no cycle store is outlined, it is considered there is sufficient space within the rear garden to accommodate a store.

7.0 REPRESENTATIONS

7.1 Six representations 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) Number of HMOs within the area;
- h) Loss or property value; and
- i) Waste and dust from building operations.

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 Retrospective 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 application form states that property was in use as a Class C4 HMO from 2013 to 2023. Reviewing the Council Tax Records for the property the LPA is only able to confirm this use from 2017 onwards. The property is now in use as a Class C3 dwellinghouse. The applicant has set out that the property was occupied by at most 4 occupants while it was in the purported C4 use. 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 72 properties within a 50-metre radius of the application site, there are only 4 confirmed HMOs (Class C4) at Nos. 13, 15 and 29 Shadwell Road and 289 London Road as shown in **Figure 2** below. (no. 29 is not on the plan but it was recently recommended for approval as an HMO by the Planning Committee). Additionally, a number of addresses have been raised to the Case Officer by neighbours, as potential HMOs. Reviewing these, the majority are identified within the neighbour comments as being in use as flats (Nos. 1A, 1B, 2, 3, 4, 5, 18) which do not fall into Class C4 use and therefore are not considered within the HMO Data count. No. 17 Shadwell Road was previously investigated to establish its use and was confirmed to be owned and managed by the Clarion Housing Group and was visited by a member of the Planning Enforcement Team on 9 July 2021 who spoke with a care worker at the door who confirmed that the property provides supported living for 3 people with round the clock care. This was consistent with Council Tax and HMO licensing investigation. On this basis, it is considered that 17 Shadwell Road is in Class C3(b) use and not included within the HMO makeup of the area.
- 8.6 Including the application property, the percentage of HMOs within the area following both permissions would be 6.94%. This is lower than the 10% threshold above which an area is considered to be imbalanced and in conflict with Policy PCS20.



Figure 2 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 (first floor)	14m ²	10m ²
Bedroom 2 (first floor)	18m ²	10m ²
Bedroom 3 (first floor)	13m ²	10m ²
Bedroom 4 (ground floor)	18m ²	10m ²
Kitchen (ground floor)	15m ²	11m ²
Living room (ground floor)	14m ²	14m ²
Conservatory (ground floor)	13m ²	Not required
Bathroom 1 (ground floor)	5m ²	3.74m ²
Bathroom 2 (second floor)	4m ²	3.74m ²

Figure 3 Table of Floorplans

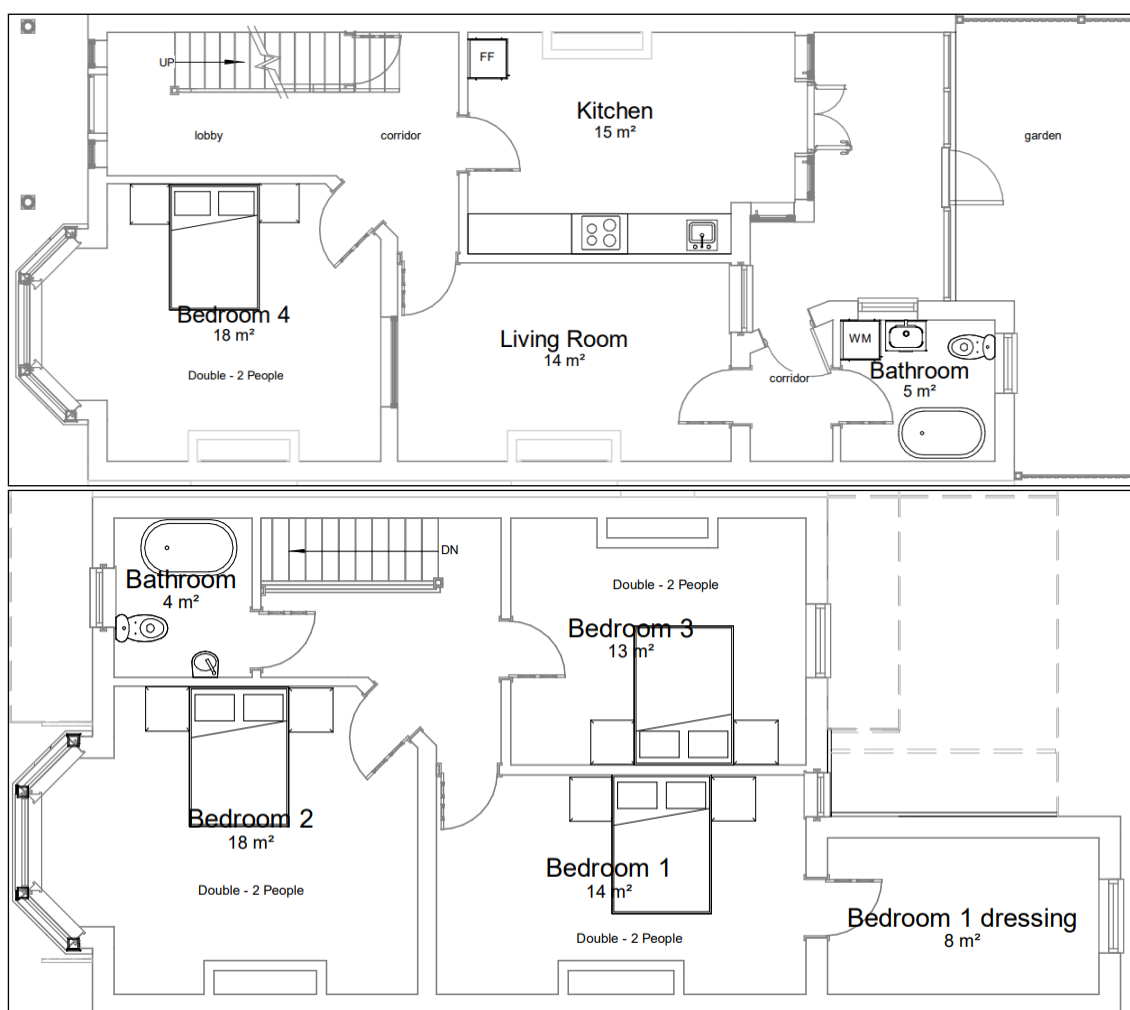


Figure 4 Proposed Floorplans

- 8.11 It is noted that all of the bedrooms are identified on the plans as being double rooms, for two occupants. This has been discussed and raised with the applicant, who has stated that only two of the bedrooms would be double occupancy in order not to exceed 6 occupants for Class C4 use. Reviewing the layout and sanitary facilities proposed, it is considered that the property could only be occupied by up to 5 individuals sharing in accordance with the Council's HMO SPD. The Case Officer has sought to confirm one room to be double occupancy and have the plans amended. No response has been received from the applicant over this matter. It is therefore considered to be appropriate in this instance to impose a condition on any permission restricting the property to 5 occupants. This therefore leaves the matter for the applicant to determine which room, if any, is for occupancy by two persons.

- 8.12 It is considered that the scheme, in terms of its layout, otherwise meets the straightforward appraisal against the Council's adopted space standards except for the supposed lack a 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 Councils standards for Houses in Multiple Occupation Guidance (September 2018). This more detailed guidance removes the requirement for a dining room 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.
- 8.13 Impact on neighbouring living conditions
- 8.14 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.
- 8.15 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.
- 8.16 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.
- 8.17 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 Highways/Parking
- 8.20 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.
- 8.21 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.

8.22 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.

8.23 Waste

8.24 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.

8.25 Impact on Special Protection Areas

8.26 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.

8.27 Community Infrastructure Levy (CIL)

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

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

8.30 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.

8.31 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.

8.32 Other Matters raised in the representations

8.33 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.

- 8.34 Fire safety is not a consideration in such a planning application and would be appropriately managed via Private Sector Housing and Building Control.
- 8.35 As stated above, the HMO Database has been reviewed and these initial results checked by the Planning Officer, no further HMOs have been highlighted by local residents or Councillors.
- 8.36 Waste and dust caused by Building Operations are an unavoidable by-product of development, given the scale of the proposal a Construction Management Plan would not be justifiable.
- 8.37 Impact on property values is not a material planning consideration.
- 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.

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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: Ground Floor - P1; First Floor - P2; and Site Plan - P4.

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 of occupancy to 5:

4) The proposed HMO hereby approved shall only be occupied by 5 residents and bedroom 3 shall only be single occupancy

Reason: To order for the property not to exceed the SPD standards for the number of residents given the lack of further bathroom and communal space in accordance with Policy PCS23 of the Portsmouth Plan.