

61 ST CHADS AVENUE PORTSMOUTH PO2 0SD

CHANGE OF USE FROM DWELLINGHOUSE (CLASS C3) TO PURPOSES FALLING WITHIN CLASS C4 (HOUSE OF MULTIPLE OCCUPATION) OR CLASS C3 (DWELLINGHOUSE) (RESUBMISSION OF 23/00676/FUL)

[23/01138/FUL | Change of use from dwellinghouse \(Class C3\) to purposes falling within Class C4 \(house of multiple occupation\) or Class C3 \(dwellinghouse\) \(resubmission of 23/00676/FUL\) | 61 St Chads Avenue Portsmouth PO2 0SD](#)

Application Submitted By:

Mrs Carianne Wells
Applecore PDM Ltd

On behalf of:

Harfield
GG-726-788 Limited

RDD: 11th September 2023

LDD: 16th November 2023

1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee by reason of its 42 objections, and a Call-in by Councillor Simpson.

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

- Matters within the previous refusal on the site - *Drainage and Impact on Sewage system and Impact on Special Protection Areas*
- Principle
- Standard of accommodation
- Impact on neighbouring living conditions
- Highways/Parking
- Impact on refuse and recycling
- Community Infrastructure Levy (CIL)
- Human Rights and the Public Sector Equality Duty ("PSED")
- 5-year Housing Land Supply
- Other material considerations

1.3 Site and surroundings

1.4 The application relates to a two-storey, end-terraced dwellinghouse (Class C3) located on the northern side of St Chads Avenue, a cul-de-sac. At the end of the cul-de-sac, to the east, is the NHS Battenberg Child Development Centre. Further east is Cliffdale Primary Academy. The existing dwellinghouse is served by bay windows to the front over two floors and has a small, paved garden area enclosed with a white painted boundary wall with the addition of small railings to the front of the property, and a back garden with sizeable outbuilding. The existing layout comprises a lounge, dining, kitchen and conservatory at ground floor and 3 bedrooms and a bathroom at first floor.

1.5 Proposal

1.6 The Applicant has sought planning permission for the change of use of the dwelling from the current lawful Class C3 dwellinghouse use to allow up to 6 individuals to live together as a Class C4 HMO.

1.7 The proposed internal accommodation, comprises the following:

- Ground Floor - One bedroom (with a shower, toilet and handbasin ensuite), Lounge; Kitchen/Dining, a WC;
- First Floor - Three bedrooms (two with a shower, toilet and handbasin ensuite) and a shower room (with a toilet and handbasin ensuite); and
- Second Floor - Two bedrooms (each with a shower, toilet and handbasin ensuite).

1.8 The Applicant intends to construct a single storey rear extension to the rear, demolish an existing conservatory, and construct a rear dormer extension within the main roof and insert two rooflights within the front roof slope. These would all be under permitted development, as shown 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 the use of the property as Class C3 Dwellinghouse or Class C4 HMO.

1.9 Given that 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 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.

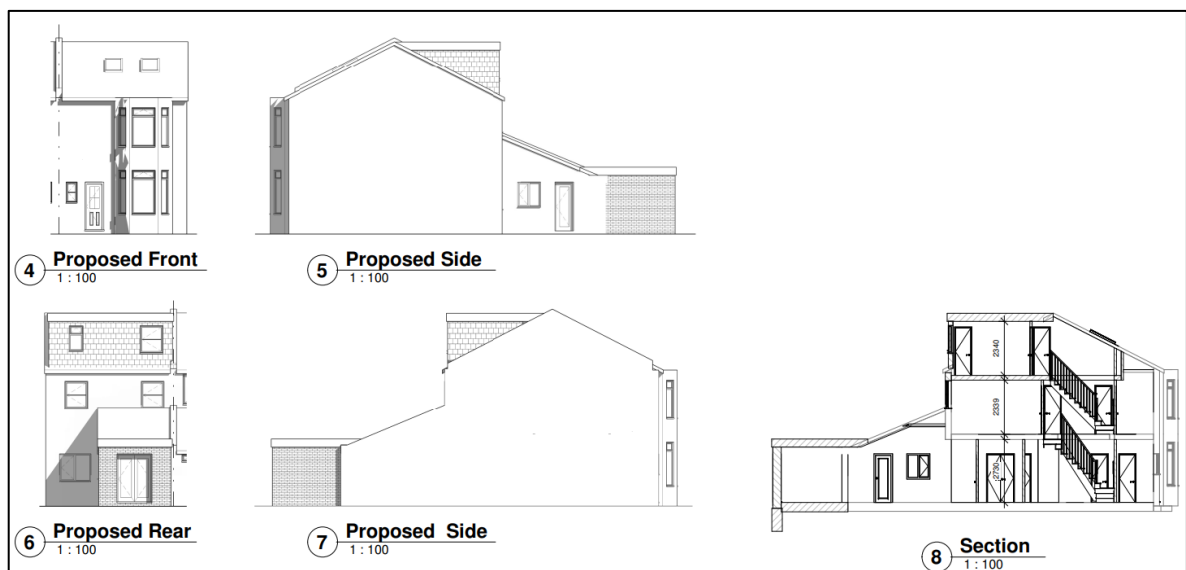


Figure 1: Proposed external alterations.

1.10 Planning History

1.11 23/00676/FUL: Change of use from dwellinghouse (Class C3) to 7 person/7 bedroom House in Multiple Occupation. Refused Committee Decision (25.08.2024).

1.12 Reasons for refusal:

1. *It is not considered that there is adequate capacity available for drainage resulting from the proposed occupation of the site, nor details to provide confidence to the Council that additional capacity will be provided prior to occupation, resulting in an unacceptable reduction to the level of foul water disposal service and local surface water flood risk contrary to Policy PCS12 (flood risk) of the Portsmouth Plan 2012.*
2. *The proposed development would result in a significant effect on the Solent Special Protection Areas, through additional recreational pressures and nitrates, with mitigation against these impacts being required. No justification or mitigation measures have been*

secured and, until such time as this has been provided, the proposal would have a significant detrimental impact on the Special Protection Areas, contrary to Policy PCS13 of The Portsmouth Plan (2012), the Conservation of Habitats and Species Regulations (2017) (as amended), the Wildlife and Countryside Act (1981), and Section 15 of the National Planning Policy Framework (2021).

- 1.13 It is noted that following this refusal an Appeal has been submitted and is currently being determined by the Planning Inspectorate. The revised scheme now being considered, has reduced the level of proposed occupation by one.

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: Required to be licenced under Part 2, Housing Act 2004.
- 3.2 Highways: St Chads Avenue is a residential road with bus stops and key amenities in close proximity along London Road. The proposed application appears to convert an existing 3-bedroom residential unit to a 6-bedroom HMO. Given the additional of up to three bedrooms, there is therefore the potential for increased instances of residents driving around the area hunting for a parking space, however this an issue of residential amenity for you to consider in your determination of the application. It is not considered that size of development would lead to a material impact to the function of the highway.
- 3.3 The proposal does indicate secure cycle storage and therefore this should be conditioned to be implemented prior to occupation of the new residential units.
- 3.4 Southern Water: Southern Water has undertaken a desktop study to determine if there is sufficient capacity in the existing public sewer network to cater for additional foul sewerage flows from the proposed development. The desktop study indicates that we can facilitate foul sewerage run off disposal to service this proposed development.
- 3.5 The development shows this to be a change of use from a single dwelling to a House in Multiple Occupation (HMO) and it already has an existing connection into the public sewer network. The increase in the flow due to the change of use is very minor, that is 0.04 l/s (litres/seconds).
- 3.6 Portsmouth Water: The proposed development lies outside Portsmouth Water's groundwater Source Protection Zones. Therefore, we do not recommend any planning Conditions.
- 3.7 Local Lead Flood Authority: Southern Water's evidence can address the matter of sewer capacity.

4.0 REPRESENTATIONS

4.1 42 representations have been received including from Councillors Swann, Wemyss and Russell, objecting to the proposal on the following grounds:

- a) Previous refusal on the site;
- b) Impact upon the sewage infrastructure;
- c) Impact of traffic and parking on vulnerable children at Solent Academies Trust, and Cliffdale Early Years Primary Nursery;
- d) The Council needs to get an updated register of all the (illegal) HMOs in Portsmouth;
- e) Fire risk;
- f) Bike sheds not used;
- g) Impact of building works;
- h) Uncertainty around the proposed occupants;
- i) Loss of family homes;
- j) Overcrowding;
- k) Number of HMOs in the area already is too high;
- l) Increase in litter;
- m) Parking concerns;
- n) Air pollution concerns;
- o) Impact from noise of the HMOs;
- p) Impact on local services (e.g. doctors, dentists, etc.);
- q) Anti-social behaviour;
- r) Impact on property values;
- s) Standard of the proposed accommodation;
- t) Bike storage accessed via the kitchen;
- u) Limited outside space;
- v) Works commencing prior to permission;
- w) Overlooking from upper floor windows; and
- x) Loss of water pressure;
- y) Strength of community response/numbers of objections.

5.0 COMMENT

5.1 The main issues to consider in the determination of this application are:

- Matters within the previous refusal on the site - *Drainage and Impact on Sewage system and Impact on Special Protection Areas*
- Principle
- Standard of accommodation
- Impact on neighbouring living conditions
- Highways/Parking
- Impact on refuse and recycling
- Community Infrastructure Levy (CIL)
- Human Rights and the Public Sector Equality Duty ("PSED")
- 5-year Housing Land Supply
- Other material considerations

5.2 Drainage and Impact on Sewage system

5.3 The previous application on the site for a 7-person/ 7-bedroom Sui Generis HMO was refused by Committee Decision due to concerns around the impact of the additional occupants on the capacity of the sewage system, primarily the impact of foul water drainage. As well as due a technical reason for refusal on the impact upon the Solent Special Protection Areas. Information was provided by Local Councillors of the sewage overrun incidents within the area, provided by Southern water.

- 5.4 The scheme has reduced the proposed level of occupancy by one resident. In addition to this, Officers have sought consultation with Southern Water (in charge of foul water drainage within the City), Portsmouth Water, as well as the Local Lead Flood Authority (LLFA). The previous reason for refusal related to sewage capacity, Southern Water has confirmed that they can facilitate foul sewerage run off disposal to service this proposed development. No objection or suggested condition was proposed by Southern Water, Portsmouth Water or the LLFA. It is therefore considered that there is sufficient capacity and the previous reason for refusal is not sufficient to refuse the proposal given these comments.
- 5.5 Impact on Special Protection Areas
- 5.6 The lack of mitigation for the previous change of use was the second reason for refusal. The reduction in the number of proposed occupants and introduction of flexible C3/C4 use (both would allow up to 6 people), results in the proposed scheme no longer representing 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. This is the standard approach for applications from Class C3 to Class C4 as opposed to Class C3 to Sui generis, which do require mitigation. Therefore, the second Reason for Refusal with the previous application falls away with the new application.
- 5.7 Principle
- 5.8 The HMO SPD has been published to provide a tool for addressing the recognised impacts that HMO's may have in Portsmouth, most notably in relation to the residential amenity, both for occupiers of HMO's and neighbouring properties and housing mix of certain communities. Two of the key matters of principles explained in the HMO SPD are the assessment of housing mix to ensure balanced communities and the application of minimum room sizes, reflecting those in force as part of the private sector housing licencing regime, to ensure an appropriate living environment for future residents.
- 5.9 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.
- 5.10 The HMO count plan shows there is currently no HMOs in a 50m radius of the property. Were the application to be approved, there would be one HMO out of the 51 houses and flats in the 50m radius, equalling 1.96%. The proposal is therefore in accordance with the HMO SPD, as it is below the policy threshold of 10%. 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. Following further Officer Investigation, including current applications for HMOs in the 50m radius, no additional HMOs have been uncovered by the Case Officer.
- 5.11 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.



Figure 2: 50m radius of HMOs

- 5.12 Having regard to the above, the proposal would comply with the aims and objectives of Policies PCS19 and PCS20 of the Portsmouth Plan (2012).
- 5.13 Standard of accommodation
- 5.14 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. 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	10.98m ²	10.0m ²
Bedroom 2	10m ²	10.0m ²
Bedroom 3	10.08m ²	10.0m ²
Bedroom 4	10.98m ²	10.0m ²
Bedroom 5	11.25m ²	10.0m ²
Bedroom 6	11.37m ²	10.0m ²

Kitchen/Dining Room	23.2m ²	22.5m ²
Lounge	14.23m ²	Not required
Ensuite B1 (GF)	2.9m ²	2.74m ²
Ensuite B2 (FF)	2.74m ²	2.74m ²
Ensuite B4 (FF)	2.74m ²	2.74m ²
Shower room (FF)	2.74m ²	2.74m ²
Ensuite B5	2.76m ²	2.74m ²
Ensuite B6	2.87m ²	2.74m ²
WC (GF)	1.45	1.17m ²

Table 1 Schedule of room sizes

- 5.15 It is noted that all of the bedrooms and communal areas meet the standards as set out within the HMO SPD (October 2019) and 'The Standards for Houses in Multiple Occupation' document dated September 2018. The previous scheme for 7-occupants, included an additional bedroom, where the Lounge is now shown. The previous scheme for 7-residents was deemed sufficient in terms of layout, with an additional resident and reduced communal space. The resulting layout is considered to result in a satisfactory standard of living environment. Aside from room sizes alone, layout and light appear satisfactory.

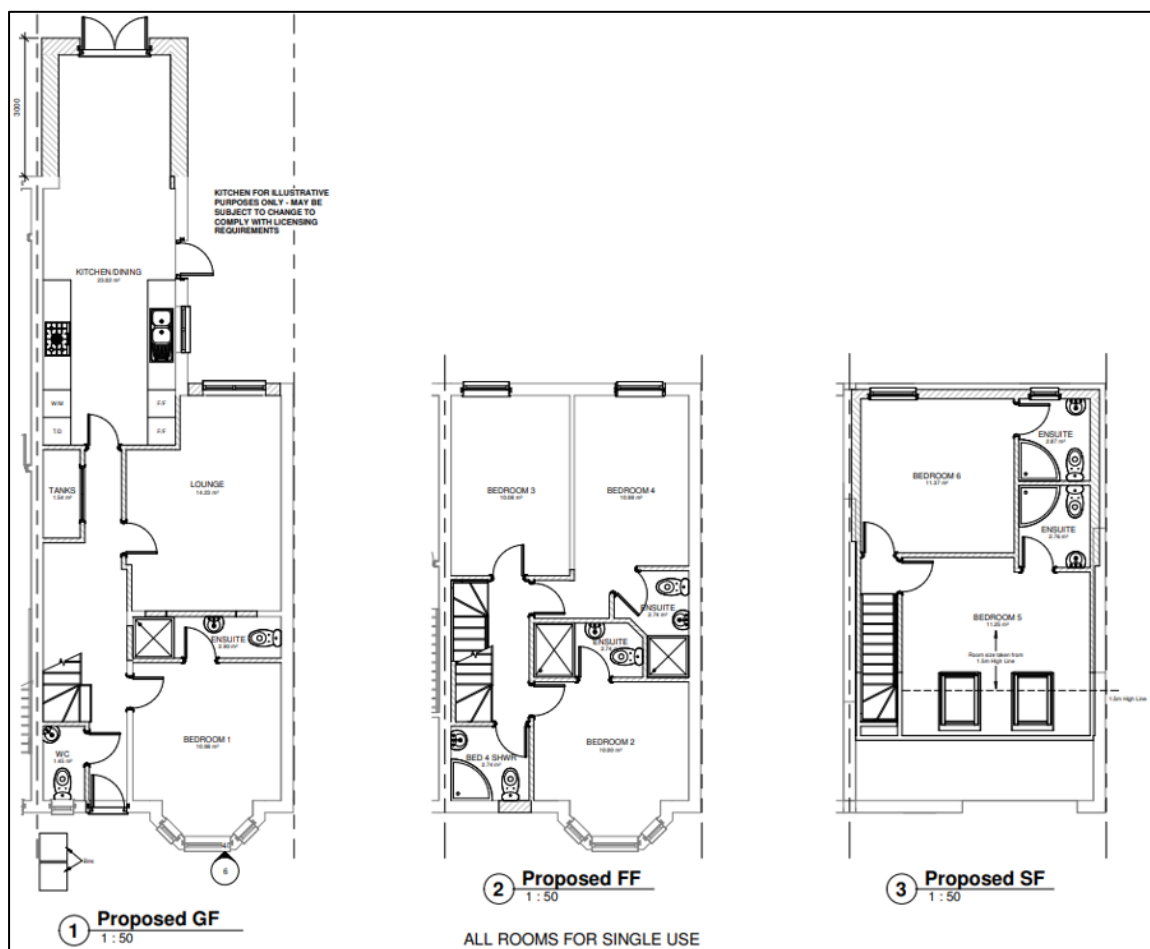


Figure 3: Proposed Floorplans

- 5.16 Impact on neighbouring living conditions
- 5.17 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 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.

- 5.18 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 HMO would not be significantly harmful.
- 5.19 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.
- 5.20 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.
- 5.21 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.
- 5.22 Highways/Parking
- 5.23 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 one off-street parking space.
- 5.24 The C4 element of the proposal compared to the existing property only expects an extra half a parking space, this is not considered to be sufficient reason for refuse the application. 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.
- 5.25 It is noted that concerns have been raised by NHS Solent Estates and Facilities, who operate Battenberg Child Development Centre which has access along St Chads Avenue to the east, due to residents parking within the centre's car park. As stated above the proposal only results in the difference of 0.5 car parking spaces against the existing C3 use. The Highways Officer has confirmed that given the size of development it is not considered to result in a material impact to the function of the highway. The matter of parking was considered within the previous application and not considered to be sufficient to merit a reason for refusal.
- 5.26 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.

5.27 Impact on refuse and recycling

5.28 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.

5.29 Community Infrastructure Levy (CIL)

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

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

5.32 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.

5.33 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, including with respect to the nearby Battenberg Centre and Primary School.

5.34 5-year Housing Land Supply

5.35 In addition the Committee's attention is drawn to the current 5-year housing land supply position within Portsmouth. In any planning application, the decision-maker will need to 'balance' any harms identified due the development against any benefits also arising. Principally, for this HMO application, the benefits are to the provision of housing through the provision of additional bedspaces of occupation within the dwelling. While this is a small contribution to the overall housing stock, the Council currently is unable to identify a 'five year supply' of housing, with only a 3.31 year supply currently identifiable. In this circumstance, the Council is directed to consider that the policies which are most important to determinations associated with housing provision within the Local Plan are out of date. The consequence of this is that decision takers are directed to apply a tilted balance to determinations so that permission is only withheld when the adverse impacts '...significantly and demonstrably outweigh the benefits...'. Any harm associated with the increase in occupancy in this area are considered to be relatively insignificant and therefore fall short of being able to significantly and demonstrably outweigh even the small benefit to the city's housing stock of the provision of extra bedspaces.

5.36 Matters raised in neighbours' objections

5.37 Some of the issues raised in the objections are not material planning issues, for example property values, fire risk and building structure (which is addressed by the Building Regulations).

- 5.38 Many objections 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 or similar parking requirement as the current C3 use (with some minor internal/PD works).
- 5.39 Many comments raise concerns over the impact of the Permitted Development works. These works are not included in this application and are beyond the control of the Local Planning Authority. These works could be implemented without the need to apply for permission under the current C3 use. Following on from this, works commencing at the site prior to the application can be carried out as the external changes themselves do not require Planning Permission.
- 5.40 Some comments object due to the apparent poor quality of living for future occupiers and the high number of HMOs already in the area. Both of these objections are considered to be unfounded because the proposal is found to comply with both policies PCS20 and PCS23 of the Portsmouth Plan. As per the map detailed above, this would be the only HMO in the 50m radius area currently.
- 5.41 Some objectors have raised concerns regarding the type and number of people staying in the property. The application is for 6 persons, and this would be monitored and controlled through the licensing regime. However, members may consider imposing an occupancy condition (although this is not considered necessary).
- 5.42 The use of the property at an HMO would not result in any increase in litter or air quality concerns. Anti-social behaviour is not linked to the use of the property as a HMO.

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:

1) Time Limit

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.

2) Approved Plans

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: Location Plan - TQRQM23034133702349; Block Plan - TQRQM23151142703257; Dual Use Plan - PG.8021.23.5 Rev C; and 4 Cycle Storage Shed - 1.

Reason: To ensure the development is implemented in accordance with the permission granted.

3) Cycle Storage

Prior to the occupation of the dwelling as a Class C4 HMO, secure and weatherproof cycle storage for four or more bicycles shall be provided as shown on the approved plans and retained thereafter for the storage of bicycles. The storage shall accord with Permitted Development rights.

Reason: To provide adequate cycle storage in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.

4) PD Works

Prior to the occupation of the property as a HMO, the single storey rear extension, dormer and rooflights proposed to be constructed under permitted development allowances shall be completed.

Reason: In order to ensure that the property meets the required space standards and therefore provides a good standard of living in accordance with Policy PCS23 of the Portsmouth Plan.