

24/00892/FUL

WARD: HILSEA

43 SHADWELL ROAD PORTSMOUTH PO2 9EH

CHANGE OF USE FROM CLASS C3 DWELLINGHOUSE TO A 7-BED/7-PERSON HOUSE IN MULTIPLE OCCUPATION

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Application Submitted By:

Mr Smith

On behalf of:

Smith

Home & Capital Trustee Company Limited

RDD: 23rd July 2024

LDD: 25th September 2024

1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee due to 36 objections being received.

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

- The principle of development;
- Standard of accommodation;
- Relevant planning history providing fallback position
- 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 site comprises of a two-storey mid-terrace dwelling located to the southern side of Shadwell Road as shown in **Figure 1** below. The property is set back from the highway by a small front garden and features a rear garden.

2.2 The surrounding area is predominantly residential and is characterised by consistent two-storey terrace properties.



Figure 1 Location plan

3.0 THE PROPOSAL

3.1 Planning permission is sought for the change of use from a dwellinghouse (Class C3) to a House in Multiple Occupation for seven people. All bedrooms would be for single occupancy.

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

- Ground Floor - Two bedrooms (both with ensuite shower, toilet and handbasin), Laundry room/ additional WC, communal Kitchen/Dining room,
- First Floor - Three bedrooms (all with a shower, toilet and handbasin ensuite)
- Second Floor - Two bedrooms (both with a shower, toilet and handbasin ensuite).

3.3 The Applicant has stated that works to extend the property (shown in **Figure 3**) will be undertaken under permitted development (without the need to apply for planning permission). These works include a rear extension, rear dormer and rooflights to the

front roofslope. These works are not included in the application. They should not be considered as part of the application.

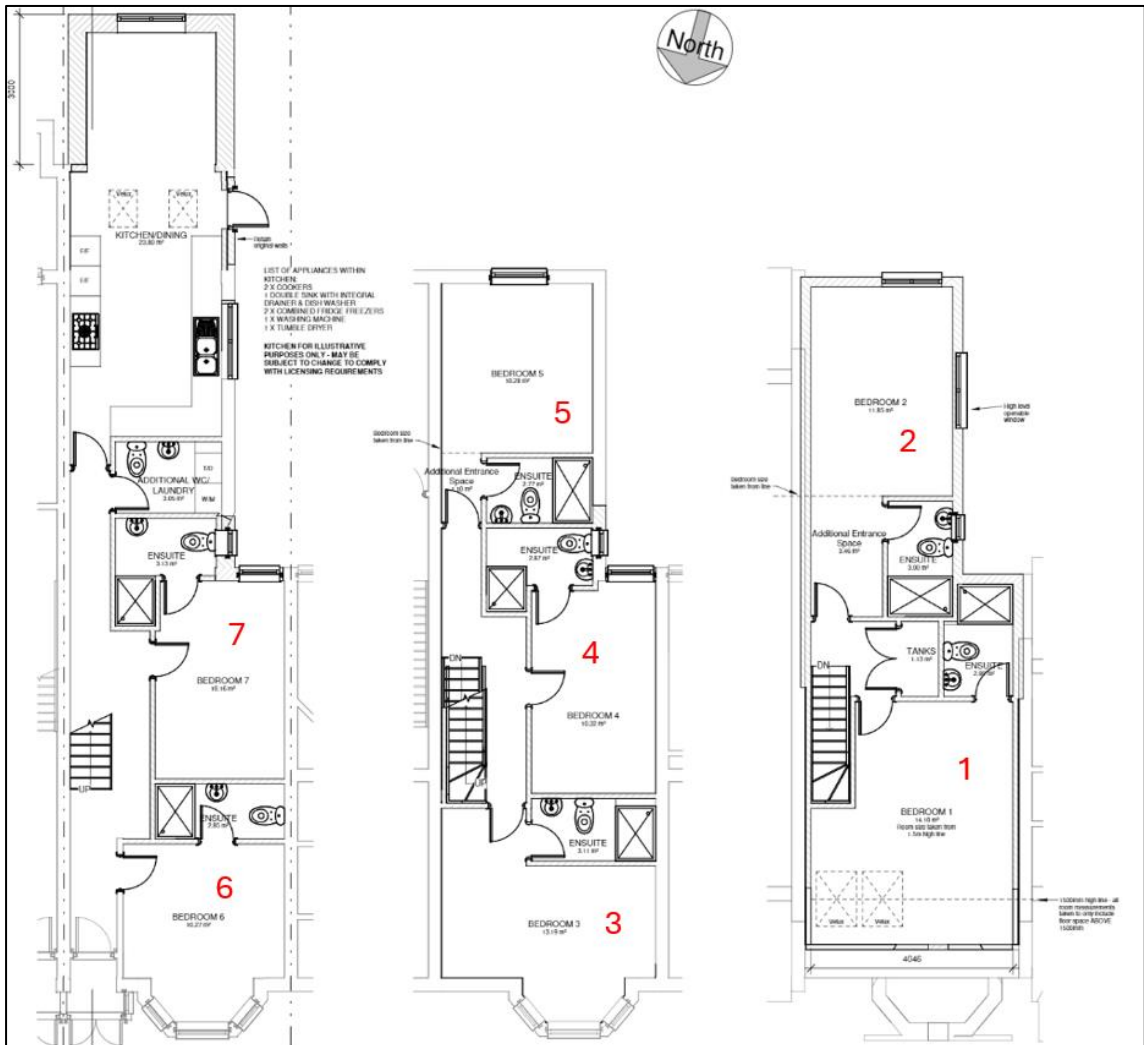


Figure 2 Proposed Floorplans

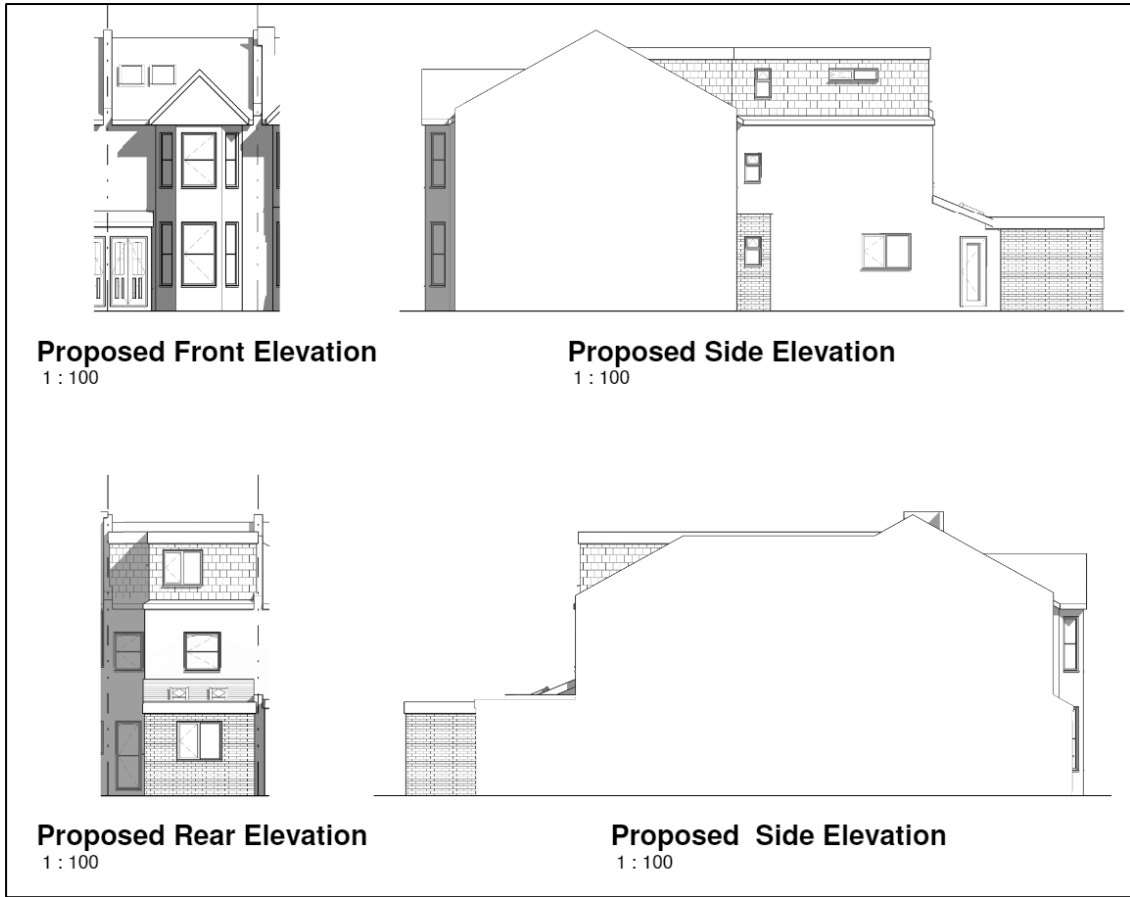


Figure 3 Proposed elevations

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 (2023), due weight has been given to the relevant policies within the Portsmouth Plan (2012), which include:

- PCS17 (Transport)
- PCS19 (Housing mix, size and the provision of affordable homes)
- PCS20 (Houses in Multiple Occupation)
- PCS23 (Design and Conservation).

5.3 Pre-Submission Portsmouth Local Plan 2020-2040

5.4 The draft Pre-Submission Portsmouth Local Plan 2020-2040 was adopted at full council on 28 May 2024 and consultation on the Pre-Submission Local Plan closed in September 2024. The relevant policies would include:

- Core Policy PLP1: Design
- Strategic Policy PLP20: Houses in Multiple Occupation

- Strategic Policy PLP47: Movement and Transport
- Development Management Policy PLP48: Access and Parking

Having regard to the NPPF paragraph 48, limited weight is given to those policies at this time.

5.5 Other Guidance

5.6 Guidance relevant to the assessment of this application includes:

- National Planning Practice Guidance (updated in 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 floorplan provided we are satisfied there is suitable living space for the proposed number of occupants. The property would likely require a licence under Part 2, Housing Act 2004.

6.2 Highways Engineer - Shadwell Road is a residential road with parking accommodated through unrestricted on street parking. Amenities and public transport are available along Gladys Avenue, London Road and Northern Parade. I am satisfied that the proposal would not have a material impact upon the function of local highway network.

6.3 Given the constraints of the site, no off-street parking can be accommodated within the curtilage of the property. Given the provision of bedrooms would increase, there is the potential for increase insistences of vehicles driving around for spaces, however this would be an amenity issue for your consideration.

6.4 The proposal does indicate secure cycle storage within the rear garden and a condition would be attached if your minded to approve the application.

6.5 Natural England - No objection subject to securing appropriate mitigation

7.0 REPRESENTATIONS

7.1 Thirty-six objections have been received.

7.2 These have raised the following concerns:

- a) Increase in noise and disturbance from operation and building works;
- b) Increase in crime and anti-social behaviour;
- c) Lack of car parking provision leading to an increase in traffic and exacerbation of existing on-street parking problems;
- d) Undue strain on local services and infrastructure, including the water pressure, sewage, drainage, electric services, waste management and Doctors/Dentists;
- e) Concerns about impact on community and loss of family dwelling;
- f) Overdevelopment of the site and issues with room sizes

- g) Concentration of HMOs in the local area;
- h) Impact upon the Solent Special Protection areas;
- i) PCC needs to lower the threshold of HMOs from 10% to 5%;
- j) Loss of teachers within the city;
- k) Loss of privacy;
- l) Licensing concerns;
- m) The proposal does not contribute to biodiversity;
- n) Loss of property value;
- o) Increase in damp within the property;
- p) Number of supported houses in the street;
- q) Number of unrecorded HMOs in the area; and
- r) Existing state of the property.

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 Five-year Housing Land supply.

8.4 The National Planning Policy Framework (NPPF) states that planning decisions should be based on a presumption in favour of sustainable development (paragraph 11). That presumption does not apply (Footnote #7) where the project is likely to have a significant effect on a 'habitats site' (including Special Protection Areas) unless an appropriate assessment has concluded otherwise (paragraph 182). Where a local planning authority cannot demonstrate a five-year housing land supply of deliverable sites, the NPPF deems the adopted policies to be out of date and states that permission should be granted for development unless:

- I. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or
- II. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

8.5 Currently, the Council can demonstrate 3.31 years supply of housing land. The starting point for determination of this application is therefore the fact that the authority cannot demonstrate a five-year supply of housing. This development would provide greater occupation of the building, so make a small, additional contribution towards the City's housing needs, at a sustainable location in the city, with good public transport, retail and services, employment, leisure, health facilities, etc. These factors weigh in favour of the proposed development. The further, specific impacts of the proposal

must still be considered as to whether the development is appropriate in detail, as set out below.

8.6 HMO Policy

8.7 Permission is sought for the use of the property as a Sui Generis HMO for 7 persons. The property is currently considered to have a lawful use as a self-contained dwelling (Class C3).

8.8 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.

8.9 Based on information held by the City Council, of the 68 properties within a 50-metre radius of the application site, four properties have been identified as a HMO in lawful use. Therefore, the addition of the application property increases the percentage to **7.3%**. No additional HMOs have been identified in the public responses or Officer investigation. The density falls below the 10% threshold limit above which an area is considered to be imbalanced.

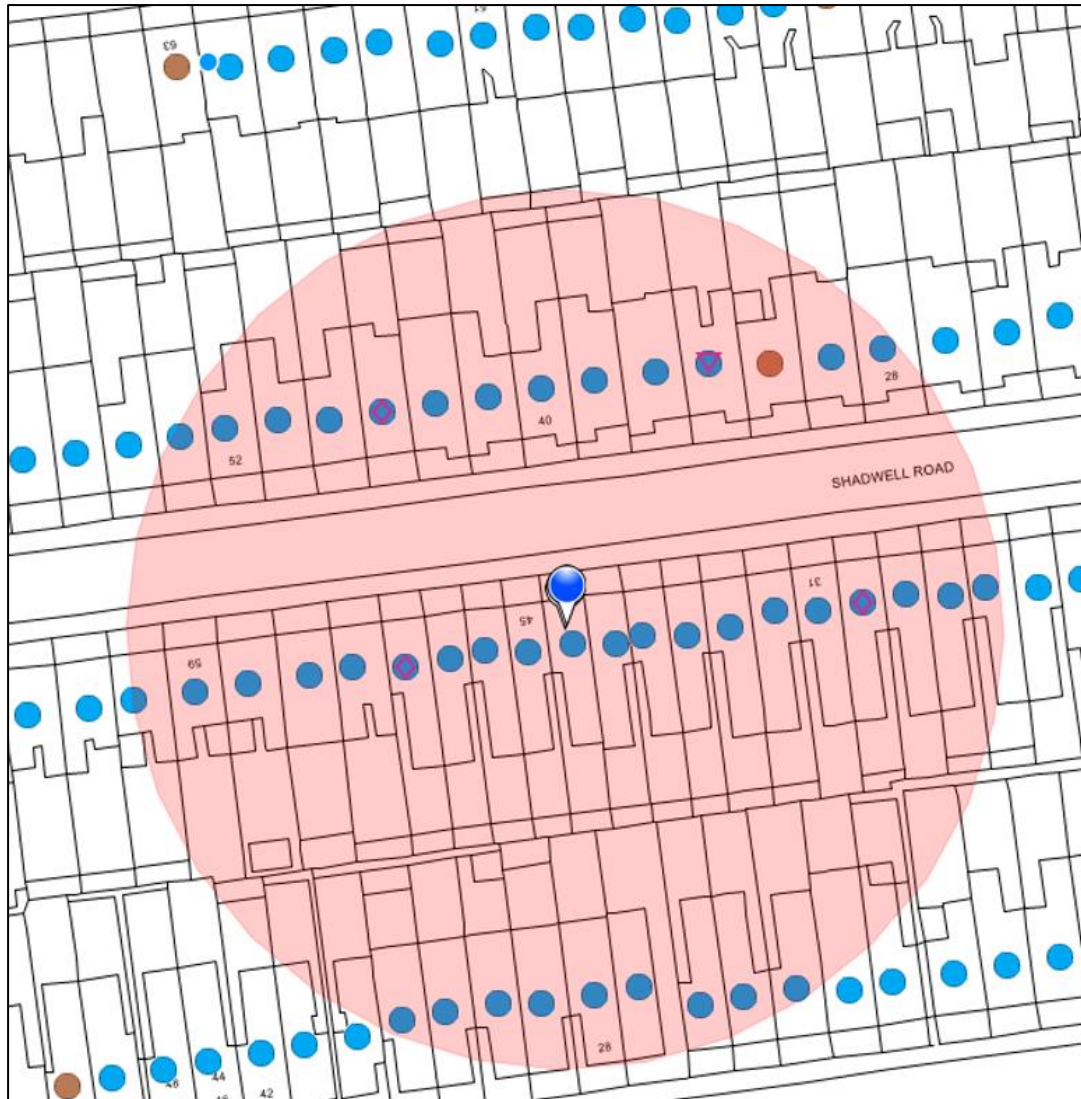


Figure 4 HMOs within 50m, identified via the purple diamond.

- 8.10 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 the proposal.
- 8.11 Having regard to the above, the proposal would comply with the aims and objectives of Policies PCS19 and PCS20 of the Portsmouth Plan (2012).
- 8.12 Standard of accommodation
- 8.13 The application seeks Sui Generis HMO use for 7 persons and proposes the following room sizes as measured by the planning officer shown in **Table 1** below.

Room	Area Provided	Required Standard
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Bedroom 1 ground floor (Single use)	14.1m ²	10.00m ²
Bedroom 2 ground floor (Single use)	15.13m ²	10.00m ²
Bedroom 3 first floor (Single use)	13.19m ²	10.00m ²
Bedroom 4 first floor (Single use)	10.32m ²	10.00m ²
Bedroom 5 first floor (Single use)	11.38m ²	10.00m ²
Bedroom 6 second floor (Single use)	10.27m ²	10.00m ²
Bedroom 7 second floor (Single use)	10.16m ²	10.00m ²
Communal Kitchen/Dining area (ground floor)	23.80m ²	22.5m ² (because all bedrooms exceed 10m ²)
Ensuite bathroom for bedroom 1	2.99m ²	2.74m ²
Ensuite bathroom for bedroom 2	3m ²	2.74m ²
Ensuite bathroom for bedroom 3	3.11m ²	2.74m ²
Ensuite bathroom for bedroom 4	2.87m ²	2.74m ²
Ensuite bathroom for bedroom 5	2.77m ²	2.74m ²
Ensuite bathroom for bedroom 6	2.85m ²	2.74m ²
Ensuite bathroom for bedroom 7	3.13m ²	2.74m ²
Laundry room	3.05m ²	Additional/NA

Table 1 - HMO SPD (Oct 2019) compliance

- 8.14 As is shown in the table above, the proposal results in an internal layout that meets the Council's adopted space standards in accordance with the adopted HMO SPD. This states at para 2.6, 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 applies lower minimum requirements (of 22.5m²) for combined living accommodation in circumstances where all bedrooms are at least 10m² and the accommodation is otherwise acceptable as communal space. Based on 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. The submitted proposed floor plans show sufficient space within the communal kitchen/dining area to accommodate the proposed communal dining/lounge space.
- 8.15 All habitable rooms have good access to natural light with a full-length window added to bedroom 7 on the ground floor for additional light and outlook;
- 8.17 All the 7 bedrooms would have ensuite facilities, the accommodation therefore would provide a suitable overall arrangement of sanitary facilities. The proposal therefore complies with Policy PCS19, PCS23 & the HMO SPD in this regard.
- 8.18 Impact on neighbouring living conditions
- 8.19 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 of the property by up to 7 unrelated persons as an HMO would be unlikely to be significantly different from the occupation of the occupation as a dwellinghouse in Class C3.
- 8.20 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.

- 8.21 All alterations to facilitate additional living accommodation are to be undertaken using permitted development rights, which the property benefits from. Any objections regarding overlooking or loss of light from the dormer window would not be material planning considerations in the determination of this application as these works can be carried out without the need for planning permission.
- 8.22 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal. The scheme thereby complies with Policy PCS23 of the Local Plan
- 8.24 Highways/Parking
- 8.25 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 Sui Generis HMOs with four or more bedrooms. It should be noted that the expected level of parking demand for a Class C3 dwellinghouse with three bedrooms is 1.5 off-road spaces. As such this small change in parking demand is not considered to represent a justifiable reason for refusal.
- 8.26 As explained above, neither the Highways Officer nor Planning Officer highlights an issue with the scheme on the grounds of a lack of parking. The SPD requirement for parking is not significantly different for the proposal than a similarly sized Class C3 dwellinghouse or HMO. Consequently it is considered that refusal on a lack of parking is not reasonable or defensible. There is no objection either on highway safety grounds and therefore refusal could not be sustained on appeal. In addition, it is considered that the site is within an area of good accessibility and located within an acceptable walking distance of the various amenities and services, and bus routes.
- 8.27 The Council's Adopted Parking Standards set out a requirement for HMOs to provide space for the storage of at least 4 bicycles. The property has a rear garden where a proposed secure cycle storage is shown to be located and there is side access to the rear of the property. The requirement for cycle storage is recommended to be secured by condition. The scheme therefore complies with Policy PCS17 of the Local Plan.
- 8.28 Waste
- 8.29 The storage of refuse and recyclable materials would remain unchanged, to be accommodated in the suitable front forecourt area. An objection on waste grounds would not form a sustainable reason for refusal and it is not considered necessary to require details of formalised waste storage.
- 8.30 Other matters raised in objections

- 8.31 Pressure on infrastructure: the change of one property from C3 Dwellinghouse to an HMO would not have a material effect on local infrastructure, and a significant cumulative effect is prevented by the 10% threshold.
- 8.32 Noise from building work: Noise and disturbance from building works on a scheme of this size would not be considered to overly impactful to justify the submission of a CEMP and/or refuse the permission acknowledging that disturbance from building works is an unavoidable consequence of development.
- 8.33 The impact from anti-social behaviour is not considered to be specifically linked to HMO use and not justifiable reason to withhold permission.
- 8.34 The loss of the family dwelling, is not resisted through policy and the principle of the conversion is discussed and established above.
- 8.35 No additional HMOs have been brought to the attention of the Officer, the register has been investigated fully and it is therefore considered that the HMO data is correct for the application.
- 8.36 The proposal will be required to be licensed and any works approved under the building regulations. These two legislative regimes are considered sufficient to manage these aspects.
- 8.37 It is not considered that the proposal would result in the direct loss of any teachers within the city.
- 8.38 The proposed external works are Permitted Development and therefore the impact upon neighbour privacy from additional window openings or proximity of built form, this impact cannot be considered in the assessment.
- 8.39 The loss of property value is not a material consideration.
- 8.40 Concerns around damp would be a private matter between the applicant and any adjacent neighbours and a technical consideration for the Applicant during the build out phase.
- 8.41 It is noted that there is supported housing within the road, most notably at No.17 Shadwell Road. This has been investigated previously and was considered to be Class C3(b). Additionally this site is outside the 50m radius of the application site.
- 8.42 As a change of use application, the proposal falls within the Exemptions to the statutory biodiversity net gain (BNG) as the proposal impacts less than 25 square metres of onsite habitat and the proposed operational development is permitted development, does not form part of this planning application and is similarly part of the Exemptions to BNG.
- 8.43 Requested changes to adopted policy will need to be undertaken through the Local Plan process. The adoption of Local Plans and Supplementary Planning Documents is designed to give certainty to all parties in the process over which developments will be viewed as acceptable by the Local Planning Authority (LPA). Where an applicant submits a scheme which complies with the Council's adopted policies and guidance, they can have a reasonable expectation that the Authority will support

such schemes unless there are overriding material considerations to indicate otherwise.

8.44 Impact on Special Protection Areas

8.45 As there is a measurable increase in occupancy from 2.4 persons (for a C3 dwelling) to 7 persons, mitigation for increased Nitrate and Phosphate Output into the Solent and Recreational Disturbance to the SPA is required. This can be secured through a s111 agreement.

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

8.47 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.

8.48 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.

9.0 CONCLUSION

9.1 Having regard to all material planning considerations 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

RECOMMENDATION I - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to:

- (a) satisfactory completion of a Legal Agreement necessary to secure the mitigation of the impact of the proposed residential development on Solent Special Protection Areas (recreational disturbance and nitrates) by securing the payment of a financial contribution. and conditions (below)

RECOMMENDATION II - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary.

RECOMMENDATION III - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to refuse planning permission if a Legal Agreement has not been satisfactorily completed within three months of the date of this resolution.

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:

- Location Plan - TQRQM2421304644241;
- Block Plan - TQRQM24204140805698;
- Plans and Elevations - 43SHAD.24.4 Rev A.

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, 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.

Water Efficiency

- 4) Unless otherwise agreed in writing by the Local Planning Authority, the development hereby permitted shall not be occupied until written documentary evidence has been submitted to, and approved by, the local planning authority, demonstrating that the development has achieved a maximum water use of 110 litres per person per day as defined in paragraph 36(2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a post-construction stage water efficiency calculator.

Reason: To ensure that the development complies with PCS15 of the Portsmouth Plan and does not exceed the scope of Nitrate Mitigation Credits purchased.

PD Works

- 5) Prior to the occupation of the property as a HMO for 7 persons, the rear extension, rear dormer and front 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.