

93 TELEPHONE ROAD PORTSMOUTH PO4 0AX**CHANGE OF USE FROM HOUSE IN MULTIPLE OCCUPATION TO 7-BED/7-PERSON HOUSE IN MULTIPLE OCCUPATION****WEBSITE LINK**

[24/01060/FUL | Change of use from House in Multiple Occupation to 7-bed/7-person House in Multiple Occupation | 93 Telephone Road Portsmouth PO4 0AX \(portsmouth.gov.uk\)](https://www.portsmouth.gov.uk/24/01060/FUL)

Application Submitted By:

Mr Oliver Farr
Applecore PDM

On behalf of:

A Rajput

RDD: 28.08.2024

LDD: 23.10.2024

1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee due to Cllr Vernon-Jackson's blanket call-in.

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

- Principle of Development including compliance with policy
- Impacts on Amenity including parking
- Other material considerations

1.3 Site and Surrounds

1.4 The application relates to a two-storey, end of terrace property located on the northern side of Telephone Road. The property is set back from the road by a small front forecourt and to the rear of the property is an enclosed garden typical in size for the area.

1.5 The application site is within a predominantly residential area characterised by rows of similar two-storey terraced properties with a similar visual style. An HMO licence for 5 persons was granted on 16/05/2024, to last until 15/05/2029 (5 years).

1.6 The Proposal

The Applicant seeks planning permission for the change of use of the dwelling from the current lawful use as an HMO with up to six individuals living together (currently with five rooms, however the existing lawful use would allow for six individuals), to allow up to seven individuals to live together as an HMO. This would be achieved with the addition of a permitted development rear dormer and front rooflights to facilitate two extra bedrooms in the new second floor.

1.7 Planning History

- 24/00025/GPDC** - Construction of single storey rear extension extending 4.5m beyond the rear wall, with a height of 2.8m to the eaves and a maximum height of 3m. Prior Approval Not Required. 18.06.2024

- ii. **23/01296/FUL** - Change of use from House in Multiple Occupation (Class C4) to purposes falling within Class C3 (dwelling house) or Class C4 (House in Multiple Occupation). Conditional Permission. 13.12.2023

2.0 POLICY CONTEXT

2.1 Portsmouth Plan (2012)

2.2 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)

2.3 Pre-Submission Portsmouth Local Plan 2020-2040

2.4 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

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

2.6 Other Guidance

2.7 Guidance relevant to the assessment of this application includes:

- National Planning Practice Guidance (updated in 2023)
- The Updated Interim Nutrient Neutral Mitigation Strategy (2022)
- The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD').
- The Solent Recreation Mitigation Strategy (2017)
- The Parking Standards and Transport Assessments Supplementary Planning Document (2014)

3.0 CONSULTATIONS

3.1 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.

3.2 Highways Engineer - No objection. Telephone Road is a residential road with parking accommodated through restricted on street parking. Amenities and public transport available in Goldsmith Avenue. I am satisfied that the proposal would not have a material impact upon the function of local highway network. Given the constraints of the site, no off-street parking can be accommodated within the curtilage of the property. The CPZ zone (MB) is currently at below capacity. Given the provision of bedrooms has increased, there is the potential for increase insurances of vehicles driving around looking for spaces, however this is an amenity issue for your consideration. The proposal does indicate secure cycle storage; therefore a

condition would be attached if your minded to approve the application for this to be provided prior to the occupation of the new rooms.

3.3 Natural England - No objection subject to mitigation being secured.

4.0 REPRESENTATIONS

4.1 Six objections have been received to the application. Two letters were provided without the postal address of the objector. The concerns raised in the objections can be summarised as follows:

- a) Lack of car parking provision leading to an increase in traffic and exacerbation of existing on-street parking problems
- b) Undue strain on local services and infrastructure, including the sewage, drainage, waste management and Doctors/Dentists
- c) Impact of anti social behaviour
- d) Unhappy with planning history and 'stacking' applications
- e) Overdevelopment of the site including issues with room sizes and communal areas
- f) Density of HMOs on Telephone Road and the surrounding area
- g) Fire and associated health and safety risks

5.0 COMMENT

5.1 The main issues to consider in the determination of this application is whether the proposal is acceptable in principle.

5.2 Principle

5.3 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 residential amenity, both for occupiers of HMO's and neighbouring properties and the housing mix of certain communities. Two of the key matters of principle 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.



- 5.4 In this case the application site is already in lawful use as an HMO and the application has been made to recognise the intention to increase its occupation by 1 occupant. As such the application is not considered, on its individual facts to create any material impact on the balance of the community in the area. The HMO SPD suggests a threshold of 10% of dwellings in any area of 50m radius as a maximum proportion of HMO dwellings to C3, single household, dwellings. As the minor increase in occupancy does not change this mix of dwellings the proposal has no impact on this assessment.
- 5.5 For reference, it can be noted however that the relevant 50m radius area is currently made up of 30 HMOs out of 81 properties, a percentage of 37%. This proposal has no effect on that percentage. The HMO SPD also describes a number of circumstances where new HMOs are considered not desirable, such as where they 'sandwich' single household dwellings between HMOs or create a number of HMOs next to each other. As this proposal does not involve the creation of a new HMO these considerations are not brought into effect.
- 5.6 The addition of the dormer and rooflight to accommodate the additional two occupants within this proposal, in addition to the internal reconfiguration of existing floorspace, will have an effect on the ratio of communal/amenity space compared to private bedroom space available internally for future occupants. While this matter will also be considered as part of the necessary licensing of the HMO by the Private Sector Housing team under the Housing Act, the HMO SPD identifies this as a consideration as part of the assessment of

whether a good standard of living environment is provided for future residents as required by Local Plan Policy PCS23. Under the current proposal the following room sizes would be provided, as measured by the Case Officer and as compared to the minimum size prescribed in the Council's adopted guidance. The minimum bedroom size of 10m² applies as there is no separate living room. The plans are shown in the Appendix at the end of this report.

5.7

Room	Area Provided	Required Standard
Bedroom 1 (second floor) (Single use)	12.25m ² (measured to 1.5m height)	10m ²
Bedroom 2 (second floor) (Single use)	12.4m ²	10m ²
Bedroom 3 (first floor) (Single use)	11.1m ²	10m ²
Bedroom 4 (first floor) (Single use)	10.2m ²	10m ²
Bedroom 5 (first floor) (Single use)	13.2m ²	10m ²
Bedroom 6 (ground floor) (Single use)	10.05m ²	10m ²
Bedroom 7 (ground floor) (Single use)	10.3m ²	10m ²
Communal Kitchen/Dining area (ground floor)	28.9m ²	22.5m ² (22.5m ² if all bedrooms exceed 10m ²)
Shared WC (ground floor)	1.4m ²	1.17m ²
Tanks Room (second floor)	2.7m ²	N/A Not Required
Ensuite Bathroom 1	2.87m ²	2.74m ²
Ensuite Bathroom 2	2.94m ²	2.74m ²
Ensuite Bathroom 3	3.04m ²	2.74m ²
Ensuite Bathroom 4	3.21m ²	2.74m ²
Ensuite Bathroom 5	3.08m ²	2.74m ²
Ensuite Bathroom 6	2.93m ²	2.74m ²
Ensuite Bathroom 7	2.74m ²	2.74m ²

5.8 As is shown in the table above, the proposal results in an internal layout that meets the Council's adopted space standards and is therefore considered to result in a satisfactory standard of living environment. The layout, including sanitary facilities, and provision of natural light to habitable rooms is considered acceptable.

5.9 Amenity and Parking

5.9 The proposal would increase the occupancy of the existing HMO by 2 occupants. While this would have a proportionate increase in activity within and coming and going from the property this small increase in the number of residents is not considered likely to have any demonstrable adverse effect on residential amenity for neighbours of the surrounding area. The scheme thereby complies with Policy PCS23 in this regard.

5.10 Similarly the minor increase of occupants is not considered to have a demonstrable impact on the parking need and thus parking availability in the wider area. It is noted that the Council's adopted Parking Standards in the associated SPD has the same standard for the number of parking spaces - 2 spaces per dwelling - for any scale of HMO with 4 or more bedrooms. Consequently, the proposal remains in accordance with the Council's adopted guidance on parking provision and Policy PCS17 of the Local Plan.

5.10 Other Material Considerations

5.11 A key and overriding consideration in this case is the necessity to recognise the fallback position available to the applicant; that is the position they could take if this application is

refused. In this case the addition of 2 occupants to the existing lawful HMO is not considered to amount to a material change in the use of the dwelling. Under s57 Town and Country Planning Act 1990 ('TCPA') there is a general requirement that development should not to be carried out, except with planning permission. However, not all changes of use are considered to be 'development' and therefore not all changes require planning permission.

- 5.12 Under s55 of the Town and Country Planning Act (1990) 'development' is defined as the making of a *material* change in the use of any buildings or land. Whether or not a change is a material change is a matter of fact and degree planning judgement to be assessed on its own merits. Members will note a number of joint appeal decisions, the 'Campbell Properties' appeal dated 29 April 2021, and the 'Lane' appeal decision dated 9 March 2023 wherein the Inspector considered a number of similar changes of use and, on their individual merits, identified examples whereby a change in the occupancy of an existing HMO with up to 6 occupants to an occupancy up to 7 occupants, and a change in occupancy from up to 6 occupants to an occupancy of up to 8 occupants was not considered to be a material change of use notwithstanding it moved the classification of the dwellings outside of Use Class C4 of the Use Classes Order.
- 5.13 While every application must be considered on their own individual merits, these examples provide clear guidance on the correct interpretation of s55 of the TCPA and that appeal decision is considered to be a material consideration in the determination of similar applications. Members may also note the previous decisions of Portsmouth's Planning Committee which have contrary to Officer recommendation determined similar changes in occupation amounted to a material change in use, primarily due to a conclusion that due to the intensity of the use of the accommodation; the impact on parking, waste, amenity impact upon neighbouring residents; and the impact on the Solent Special Protection Area the changes considered in those cases on their own individual merits amount to development requiring planning permission. The 'Lane' appeal decisions of 9 March 2023 were against three such Planning Committee decisions and the Planning Inspector in those case disagreed both with the judgement of the Committee and was critical of the justification, noted above, as a basis for that judgement.
- 5.14 In the circumstances of the current application, it is considered that the increase in occupancy does not result in a significant difference in the character of the activities that would occur under the proposed occupation compared to the existing lawful use as a HMO with up to six occupants. As such it is considered that the change of use is not material and planning permission is not required for the increase in occupancy described in the application. The Applicant therefore has a fallback position of being able to lawful carry out the change in occupation without the benefit of Planning Permission.
- 5.15 Should it be considered necessary to assess the merits of the application, notwithstanding the advice of Officers' above, 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 bedspace of occupation within the HMO. 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.
- 5.16 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 provided none of the exceptions in footnote #7 apply, including impacts to habitats sites. 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 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 bedspaces, should such assessment be considered necessary.

5.17 Impact on Special Protection Areas

5.18 It is acknowledged that there are ongoing issues around the nitrification of the Solent due to increased levels of runoff from residential development. The applicant's fall-back position set out above allow the occupation of the site without further planning permission being required. As such it is considered that the proposal would not amount to development and therefore would not have a Likely Significant Effect on the Solent Special Protection Areas or result in an increased level of nitrate discharge.

6.0 CONCLUSION

6.1 As detailed above the application is considered to fully comply with the relevant policies of the Local Plan. However, notwithstanding the compliance or otherwise of the proposal with the policies of the Local Plan it is noted that on the details of this case the changes in the character of activities are not sufficiently significant, as a matter of fact and degree, to be considered to result in a material change in the use of this property. As such planning permission is not required and the proposal could be carried out as a fallback position irrespective of the determination of this application. This is considered a material consideration of overriding weight, and unconditional planning permission should therefore be granted.

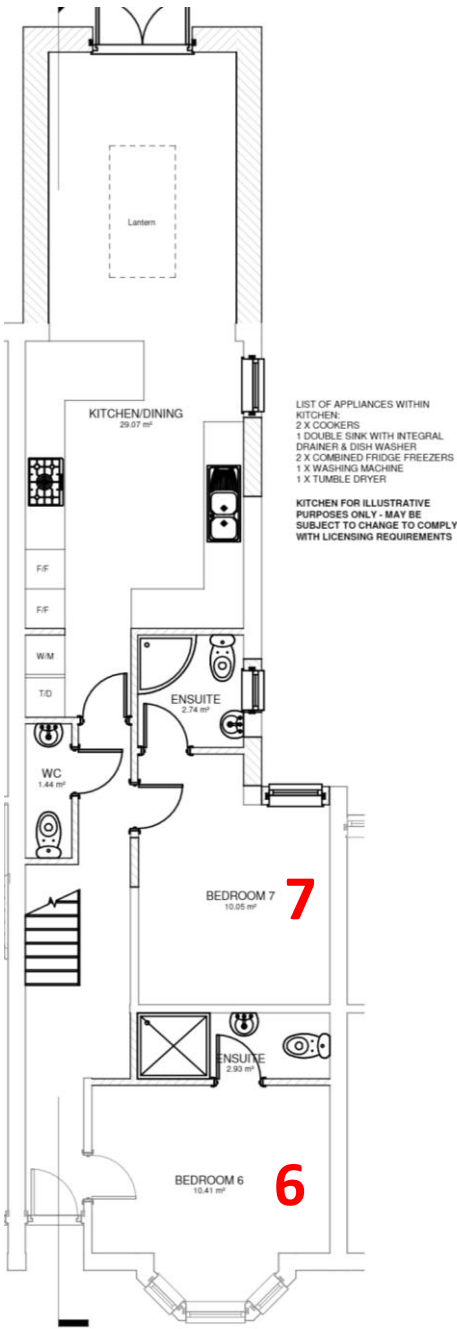
6.2 Should the Committee conclude, contrary to this recommendation, that the change in occupation, as a matter of planning judgement, fact and degree in this specific case results in a material change of use requiring planning permission then they should consider whether permission should be granted with conditions. In such a circumstance, as the merits of the proposed use comply fully with the relevant policies of the Local Plan and associated guidance, the Committee would need to consider whether to resolve to grant permission, subject to the imposition of conditions requiring the following;

- Implementation of the additional occupancy within 3 year (a Time Limit condition);
- Development be carried out in accordance with plans submitted (an Approved Plans condition) and;
- That increased occupancy should not occur until an appropriate scheme of mitigation is submitted and approved to mitigate any impact on the Solent Special Protection Area

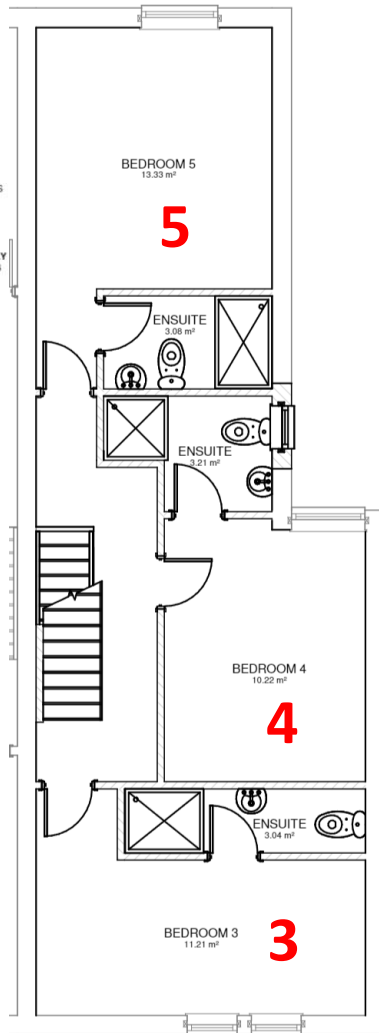
RECOMMENDATION Unconditional Permission

Conditions: None

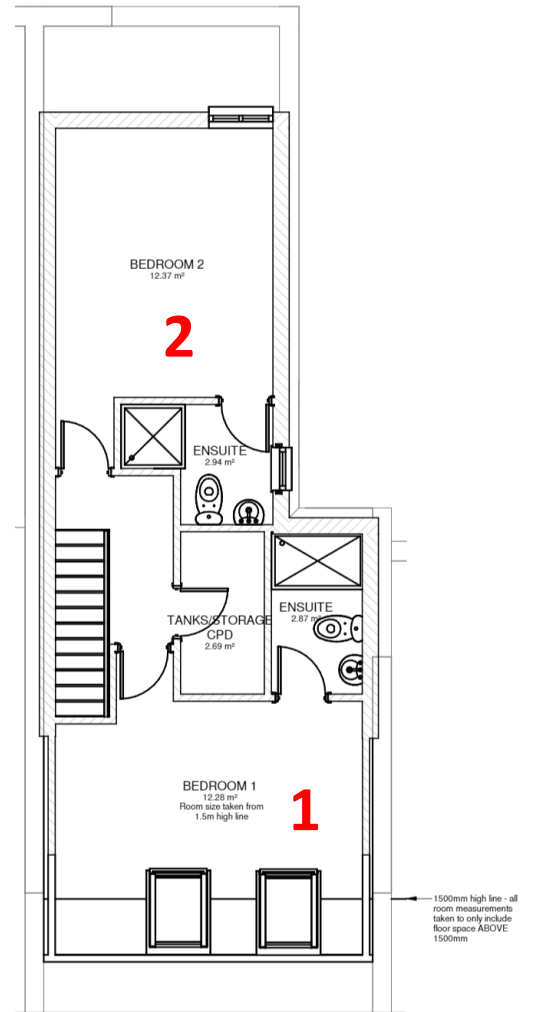
Appendix: FLOOR PLANS



1 Proposed GF
1 : 50



2 Proposed FF
1 : 50



3 Proposed SF
1 : 50