

138 CARDIFF ROAD PORTSMOUTH PO2 8BL

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

[24/01030/FUL | Change of use from dwellinghouse \(Class C3\) to purposes falling within Class C3 \(dwellinghouse\) or Class C4 \(House in Multiple Occupation\) | 138 Cardiff Road Portsmouth PO2 8BL](#)

Application Submitted By:

Mrs Loretta Taylor
Thorns Young Architectural

On behalf of:

Mr O Gooch

RDD: 22nd August 2024

LDD: 31st October 2024

1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee due to the number of objections (13), and at the separate request of Councillor Hunt.

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

- Principle of development
- Standard of accommodation
- Impacts on amenity of the neighbouring residents
- Parking
- Waste
- Impact on the Solent Protection Area
- Community Infrastructure Levy (CIL)
- Human Rights and the Public Sector Equality Duty ("PSED"); and
- Any other material considerations.

1.3 Site and surroundings

1.4 The application site is a two-storey terraced dwellinghouse on the eastern side of Cardiff Road towards its northern end. The dwellinghouse has a small front forecourt and an enclosed garden at the rear. The existing layout comprises of a lounge, dining room, kitchen and bathroom at ground floor level; three bedrooms and a WC at first floor level.

1.5 The application site is within a predominantly residential area. The property is within the vicinity of the Spotted Cow - a former public house converted into eight flats (09/01225/OUT), which is next door to a church (True Jesus Church). The site lies opposite the side boundary of Stamshaw Infant School, and backs on to a commercial large building (laundry services).



Figure 1 Location Plan

1.6 The Proposal

1.7 Planning permission is sought for the change of use of the property from a dwellinghouse (Class C3) to purposes falling within class C3 (dwellinghouse) or class C4 (house in multiple occupation).

1.8 The proposed accommodation, as shown in Figure 2 below, comprises the following:

- Ground floor: Living area including kitchen, snug, bathroom with WC and handbasin
- First floor: three bedrooms, bathroom with WC and handbasin;
- Second floor: three bedrooms, WC.

1.9 The works to construct a rear dormer are currently being completed under permitted development rights (PDR). Given the alterations benefit from PDR, it is not possible to consider their design or amenity impact as part of this application. There would be no other external operational development forming part of this application. The cycle store would be within the rear garden and the bin store would be at the front forecourt.



Figure 2 Proposed floor plans

1.10 Planning History

No relevant planning history.

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').

2.3 Pre-Submission Portsmouth Local Plan 2020-2040

2.4 The draft Pre-Submission Portsmouth Local Plan 2020-2040 was approved at full council on 28 May 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.

3.0 CONSULTATIONS

3.1 Private Sector Housing

The property would require mandatory HMO licencing. There property does not have an HMO licence and no application is currently pending.

3.5 Highways

No objection. Proposal would not have a material impact on highway safety.

4.0 REPRESENTATIONS

4.1 Thirteen letters of objection were received, five of these letters were provided without the postal address of the objector. Councillor Hunt called-in the application for Committee decision. The concerns raised in the objections can be summarised as follows:

- Impact on parking and the congestion as well as reduced air quality resulting from hunting for a parking space;
- Population density if the rooms were for double occupancy;
- Concerns about impact on community and loss of family dwelling;
- Plea to councillors to stop HMO development; accusation the planning department is the puppet of developers and investors;
- Potential for noise and anti-social behaviour; overcrowding;
- The 10% threshold for HMOs within 50m radius should be reduced to 5%;
- Fire risks, emergency exits;
- Impact on amenity due to potential social problems;
- Pressures on local amenities and services; including sewage and drainage
- Concerns about the room sizes; the property is not big enough to accommodate more than five occupants and should be conditioned as such;
- Impact on Solent Protection Area.

5.0 COMMENT

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

- Principle of development
- Standard of accommodation
- Impact on residential amenity of the neighbours
- Parking
- Waste
- Impact on the Solent Protection Area
- Community Infrastructure Levy (CIL)
- Human Rights and the Public Sector Equality Duty ("PSED"); and
- Other matters raised in the representations.

5.2 Principle of development

5.3 Permission is sought for the use of the property for purposes falling within Class C4 (house in multiple occupation) (HMO). The property currently has a lawful use as a self-contained dwelling (Class C3). For reference, a Class C4 HMO is defined as 'a property occupied by between three and six unrelated people who share basic amenities such as a kitchen or bathroom'.

- 5.4 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.
- 5.5 Based on the information held by PCC, of the 41 properties within a 50-metre radius of the application site, there are no confirmed HMOs as shown below (0%). 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.
- 5.6 Following further investigations, no additional HMOs have been uncovered by the Case Officer. Including the application property if approved, the proposal would bring the percentage of HMOs within the area up to one: 2.44%. This would be lower than the 10% threshold above which an area is considered to be imbalanced and in conflict with Policy PCS20.



Figure 3 Existing HMOs within 50m radius of the application site

- 5.7 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 with this guidance caused by this proposal.
- 5.8 Having regard to the above, the proposal would comply with the aims and objectives of Policies PCS19 and PCS20 of the Portsmouth Plan (2012).
- 5.9 Standard of accommodation

- 5.10 The application seeks to use the property as a C3/C4 HMO which would, in planning terms, technically allow occupation by up to six individuals when in use as C4. 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 below.

Room	Area Provided (msq)	Required Standard (msq)
Kitchen/living area	30.77	34
Snug	7.61	Please see text below
Bedroom 1	8.02	6.51
Bedroom 2	8.02	6.51
Bedroom 3	7.9	6.51
Bedroom 4	7.3	6.51
Bedroom 5	8.21	6.51
Bedroom 6	7.83	6.51
GF bathroom	3.75	3.74
1F bathroom	4.29	3.74
2F WC	1.3	1.17

- 5.11 As is shown in the table above, all bedrooms meet the Council's adopted space standards for single occupancy in accordance with your HMO SPD. For communal rooms, the SPD sets out sizes for either one combined living space, or for three individual rooms (kitchen, living room, dining room). This application provides two communal rooms, so does not fall straightforwardly in to either category. The large communal room (containing but not limited to the kitchen) is 30.77 sqm, short of the 34 sqm required. However, that 3.23 sqm shortfall is more than compensated for by the snug, at 7.61 sqm. The HMO SPD requires two separate bathrooms and two WCs (one of which can be contained in one bathroom) for HMOs accommodating 6-10 people. The bathrooms and separate WC meet and exceed the required space standards. It is considered the combination of room sizes and layouts, and daylight, would provide an adequate amenity for occupiers.

5.12 Impact on residential amenity of the neighbours

- 5.13 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) which involves occupation by a single family, would be unlikely to be significantly different from the occupation of the property by between three and six unrelated persons as a house in multiple occupation.

- 5.14 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. PCC's report on Shared Housing in Portsmouth: An Assessment of Demand, Supply and Community Impacts (2012) provides an overview of the negative impacts of HMO concentrations on local communities and point 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 more HMO would not be significantly harmful.

- 5.15 Having regard to this material consideration, the impact of the change of use would not be significant on residential amenity.

5.16 Parking

- 5.17 Properties in use class C4 with four or more bedrooms are required to provide two parking spaces which is the same amount as for properties in use as class C3 with four or more bedrooms (Parking Standards SPD 2014). The application site currently has three bedrooms therefore it is required to provide 1.5 parking spaces. The proposal has no off-street parking, which is no change from the fallback position.

- 5.18 The proposed use describes occupation by up to six people, while a C3 dwellinghouse could be occupied by more or less residents, and as such it is not considered to represent an increase in overnight stays. The proposal is thus not considered to have a demonstrable impact on the parking need over and beyond the existing. Therefore, it is considered that refusal on a lack of parking is not reasonable or defensible and refusal could not be sustained on appeal. It should be noted that the property could be occupied by a large family with adult children, each potentially owning a separate vehicle.
- 5.19 The Parking Standards SPD (2014) also specifies the expected level of cycle parking that should be provided for residential developments. A 4+ bedroom property has an expected demand for 4 cycle parking spaces. A bicycle storage facility has been indicated in the back garden and this would be secured through a condition.
- 5.20 Waste
- 5.21 The storage of refuse and recyclable materials would be located in the forecourt area, it is considered that the amount of waste/ refuse would be similar for a larger family living at the same Class C3 dwellinghouse property, or for an HMO use, and can be readily accommodated within the forecourt area, and an objection on waste grounds would not form a sustainable reason for refusal.
- 5.22 Impact on Special Protection Areas
- 5.23 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 C4 use (which 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.
- 5.24 Community Infrastructure Levy (CIL)
- 5.25 The development would not be CIL liable.
- 5.26 Human Rights and the Public Sector Equality Duty ("PSED")
- 5.27 PCC 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.
- 5.28 Under section 149 of the Equality Act 2010, PCC must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Furthermore, PCC must advance equality of opportunity and foster good relations 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.
- 5.29 Having 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.
- 5.30 Other matters raised in the representations

- 5.31 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.
- 5.32 The development would accommodate up to six people. Such an increase would not result in a material increase in the potential for anti-social behaviour, noise, etc. compared to a single-family household and would not therefore represent a reason to withhold planning permission.
- 5.33 Fire safety is not a consideration in such a planning application and would be appropriately managed via Private Sector Housing and Building Control.
- 5.34 The request for a different policy threshold for the percentage of HMOs in the 50m radius should have been directed to the Pre-submission Local Plans formal consultation stage over the summer, it cannot be taken in to account during the course of a planning application, the adopted SPD guidance still applies.
- 5.35 The accusations that the Council's planning department is biased are unfounded and the officers' recommendations to this committee are based on the local and national planning policy, as well as officers' professional judgement.

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

Time Limit:

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990

Approved Plans:

- 2) Unless otherwise agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Location plan, block plan, 8129 24 1 Rev. F (floor plans), 24 (metal bike store)

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.

Waste Storage:

- 4) Prior to the first occupation of the property as a House in Multiple Occupation; refuse and recyclable materials storage facilities shall be provided at the site and shall thereafter be retained for the continued use by the occupants.

Reason: To ensure that adequate provision is made for the storage of refuse and recyclable materials in accordance with policy PCS15 and PCS23 of the Portsmouth Plan.

External Alterations

- 5) Prior to the occupation of the property as a HMO, the extension works to be undertaken under permitted development shall be completed.

Reason: To ensure the property meets the required space standards to provide a good standard of living in accordance with Policy PCS23 of the Portsmouth Plan.

Informative:

- 1) Based on the layout and sizes provided with this application this property would require to be licenced under Part 2, Housing Act 2004. This is not a planning matter and would require a separate licensing application.