

Kingston House Netley Road Southsea PO5 3NB

Change of use of building to form 11 Bedroom 11 person HMO with new external cycle store (updated description and plans received).

[24/00720/PLAREG | Change of use of building to form 11 Bedroom 11 person HMO with new external cycle store \(updated description and plans received\) | Kingston House Netley Road Southsea PO5 3NB](#)

**Application Submitted By:
Chris Flint Associates Ltd**

**On behalf of:
Mr Fernando Gildone**

RDD: 17.06.2024
LDD: 23.09.2024
EOT: 24.01.2025

1. SUMMARY OF MAIN ISSUES

- 1.1 The application is brought to committee because of the number of neighbour objections (8) received.
- 1.2 The main planning issues are considered to be:
 - Principle of development
 - Standard of accommodation
 - Impact upon amenity of neighbouring residents
 - Highways/Parking
 - Waste
 - Impact upon the Solent Habitats Sites; and
 - Any other matters raised

2. SITE AND SURROUNDINGS

- 2.1. The application site is a two and a half storey white rendered building on the corner of Netley Road and Netley Terrace. There is access to the bin store directly off Netley Road. To the side of the property, there is a vehicular access gate which leads to a residential mews courtyard at the rear of the property (known as "Freemantle Mews"). This area is within the applicant's ownership however the residents of the Mews have access rights over it.
- 2.2. The site has been used in different ways over the years. The last lawful use of the site was as a guest house. A planning application was submitted in 1997 to use the building flexibly as either a guest house or student accommodation on alternating basis. The application was recommended for approval in 1997 but the S106 legal agreement was never signed and in 2005 the application was withdrawn. It is understood that the building, at some point prior to 2022, was unlawfully used as an HMO. In 2022 the building was converted into 7 residential flats (which the applicant has termed as 'bedsit's) without planning permission. Due to the size of the flats not meeting the required space standards, the retrospective planning application was refused. The Applicant stated the building was to be vacated in August 2024 due to the unlawful use. On inspection of the building also in August, it was noticed that the building was in use as an "Airbnb" for short-term residential lets and had been since July. The property is still available to book on booking websites.

- 2.3. The site lies within the Owens Southsea Conservation area. Opposite the application site, 1-11 Netley Terrace which are Grade II Listed buildings. The area is predominately residential, although it is close to part of Southsea town centre on Osborne Road, with a significant number of bars and restaurants . Two public houses are nearby to the south.

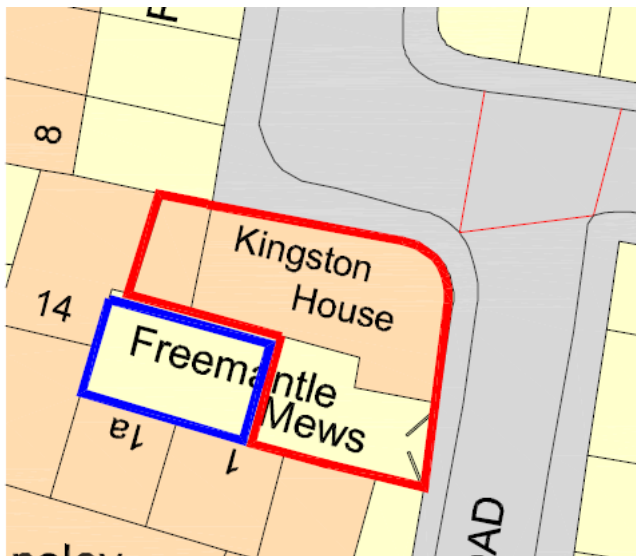


Figure 1 Location Plan

3. PROPOSALS

- 3.1 The proposal is for the use of the building to be a 11 bed 11 person House in Multiple Occupation (Sui Generis). No external alterations are proposed as part of the works apart from the inclusion of a bike store, in the mews courtyard. The existing refuse store fronting Netley Road would be retained. There are internal changes proposed including the removal of a number of the kitchen units for those rooms to become bedrooms. Two of the bathrooms are shown to be increased in size to meet the required space needed.
- 3.2 The application was originally part-retrospective due to the then-proposed use of three of the flats as bed sits. During the application process, this element was removed at the request of the case officer however the application reference suffix has not been changed to a FUL due to repercussions on publicity and customers accessing the application. Also, the application proposed 17 occupiers, that was reduced to 11 at the Planning Officer's request.

4. PLANNING HISTORY

- 4.1 **App No** A*36254/AB - Use of first and second floors as either an hotel or for residential student accommodation on an alternating basis.
Decision - Although the application was recommended for approval, no legal agreement was ever agreed and therefore the application was withdrawn.
Date 24.04.2005
- App No** 22/01212/PLAREG - Retrospective application for the conversion to form 7no. apartments
Decision - Refused. Reasons: inadequate size of flats, and the impact on Special Protection Areas
Date 01.12.2023

5. CONSULTATIONS

- 5.1 Highways Team

Kingston House is located along a residential road with restricted on-street parking (KC Zone operating at 115% capacity). Amenities are available in proximity along Osborne Road and Palmerston Road. We are 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. There is a potential for increased instances of residents driving around the area hunting for a parking space, however this is an issue of residential amenity for planning consideration.

The proposal does indicate secure cycle storage, and this should be provided prior to occupation of the new residential units

5.2 Private sector housing

Room 1 and Room 2 Ground floor - Layout

-Fire Safety Concern regarding bedrooms 1 and 2 (ground floor) on the supplied floor plans appear to be inner rooms. Consideration needs to be given to provide an adequate means of escape from the bedrooms to a place of ultimate safety that do not pass through a high risk room (lounge)

Room 7 First floor rear - Layout

-Fire Safety Concern regarding bedroom 7 (first floor) on the supplied floor plans appears to be an inner room. Consideration needs to be given to provide an adequate means of escape from the bedroom to a place of ultimate safety that does not pass through a high risk room (kitchen).

For further information on HMO licensing requirements please see Private Sector Housing Space and Amenity Standards here: [Private Sector Housing Space and Amenity Standards - Houses in Multiple Occupation \(portsmouth.gov.uk\)](http://portsmouth.gov.uk)

The agent has confirmed that the windows would be escape windows. Licensing have stated that this seems fine but unless an inspection is carried out on the property they cannot say one way or another as there may be other issues that are not evident on the plan.

5.3 Natural England

No objection subject to securing appropriate mitigation (Special Protection Areas)

5.4 Contaminated Land Team

A condition relating to land contamination is not required.

5.5 PCC Waste Management

The bin store now works, though it doesn't allow for changes at the development or for extra bins for any future needs/change in legislation. The applicant will need to purchase the 360 litre bins directly from PCC Waste Management before anyone moves in and we will not be removing any excess or side waste. If there are any issues of blocked access caused by excess/side waste or bulk waste the bins will not be emptied and the development owner will be liable for the clearance of the waste at a cost to them until we can safely access the bins on the next scheduled collection. Additionally, if the recycling bin is heavily contaminated it will not be emptied and will be down to the owner to clear all of the contamination from the bin and dispose of legally at a cost until them. The recycling will then be emptied on the next scheduled collection, given the contamination has all been removed.

6. **REPRESENTATIONS**

6.1 Publicity

Initial Development Description: Retrospective application for the conversion to form 3no. bedsits and 6 bedrooms for use as a House in Multiple Occupation.

Neighbour letters sent - 29th July 2024

Site Notice - 1st August 2024

Amended Development Description: Change of use of building to form 11 Bedroom 17 person HMO with new external cycle store (updated description and plans received)

Neighbour letters sent - 15th October 2024

Site Notice - 16th October 2024

6.2 Eight representations were received in respect of the proposals all of whom object to the scheme.

6.3 The following objections were made to the scheme;

- The building is being used as an Airbnb
- Late night noise and use of private rubbish bins
- Residents will use the courtyard for smoking and drinking
- Netley Road is mainly private homes therefore this isn't a suitable location
- Parking is extremely difficult
- Overdevelopment of the site
- Rubbish being left on the pavement
- Excessive noise from late night visitors and parties after midnight causing disturbance to the local residents.

6.4 Two additional objections, from previous objectors, were made pursuant to the further publicity in October:

- The cycle store protrudes into the Mews, inhabiting the turning of vehicles that park into the garage.
- For personal safety and security The Mews gates are kept closed and locked.
- When the building was used to house students, there were many problems of loud music and antisocial behaviour.
- Cycle area could be used as a smoking shelter.
- Cars are regularly parked on pavements and double yellow lines.
- Inadequate bin storage, bins are often left in the street making it difficult for older residents to stay on the pavement
- Kingston House would be better served by a reduced number of flats for long term residential use and would be more in keeping with the area and would enhance the local community.
- Concerns the cycle racks could turn into dumping place for electric bikes.

7. **POLICY**

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) states that planning applications must be determined in accordance with the development plan for an area, except where material considerations indicate otherwise. The development plan in this case comprises the Portsmouth Plan (2012) and the saved policies of the Portsmouth City Local Plan (2006).

7.2 The following policies are of particular relevance in this case:

The Portsmouth Plan (2012)

- PCS17 - Transport
- PCS20 - Housing in Multiple Occupation
- PCS23 - Design & Conservation

Pre-Submission Portsmouth Local Plan 2020-2040

The draft Pre-Submission Portsmouth Local Plan 2020-2040 was approved for Regulation 19 Consultation at Full Council on 28 May 2024 and consultation on the Pre-Submission Local Plan closed in September 2024. The following draft policies are considered to be relevant:

- PLP1: Design
- PLP20: Houses in Multiple Occupation
- PLP47: Movement and Transport
- PLP48: Access and Parking

7.3 Having regard to the NPPF paragraph 49 and the stage the emerging plan has reached in its preparation, limited weight is given to the above policies at this time.

7.4 Supplementary Planning Documents and Guidance

7.5 The following have been adopted by the Council as Supplementary Planning Documents and are relevant to the proposals;

- Updated Interim Nutrient Neutral Mitigation Strategy for New Dwellings (2022)
- Houses in Multiple Occupation (HMOs) (2019) - ('the HMO SPD')
- Solent Recreation Mitigation Strategy (2017)
- The Parking Standards and Transport Assessments Supplementary Planning Document (2014)

7.6 National Guidance

- National Planning Policy Framework (2024)
- National Planning Practice Guidance
- The Technical Housing Standards - nationally described space standards (2015)

8. OFFICER ASSESSMENT

8.1 The main issues for consideration in the determination of the applications include the following:

- Principle of development
- Standard of accommodation
- Impact on the amenity of neighbouring residents
- Highways/Parking
- Waste
- Impact on Solent habitats sites
- Other matters raised in the representations.

Principle of Development

8.2 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

8.3 Park House is a large building in residential use, near the application site to the south-west, fronting Auckland Road West, Clarence Parade and Hines Avenue. It contains different entrance points, distributed around the large building. It contains a total of 37 flats and 2 HMOs.

8.4 Park House is only partially within the 50m radius of the application site, that part being very approximately a fifth of the building. The SPD sets out (Para 2.20 (viii)) that the LPA will endeavour to establish the number of flats that fall, in part or whole, within the 50m radius. It says if this proves impossible then all properties inside of this building will be included in the count. The Planning Officer has been unable to establish the internal layout of the units set against the 50m radius. Since only approximately one fifth of the building is within the 50m radius, it seems unreasonable in this instance to include all of the units as per the SPD. Instead, the units that have their entrances off Auckland Road West and which lie within or right on the edge of the 50m radius of the application site have been counted, amounting to 25 flats and 1 HMO. Flats above the two pubs and above commercial units on Osborne Road have also been included. This provides:

Existing: 5 HMOs in 83 residential properties, amounting to 6.02 %

Proposed: 6 HMOs in 83 residential properties, amounting to 7.23%

Were the whole of Park House to be included in the calculations, the total count would be as follows:

Existing: 6 HMOs in 95 residential properties, amounting to 6.31%

Proposed: 7 HMOs in 95 residential properties, amounting to 7.27%

8.5 Taking into account the above figures with all or part of Park House, the percentage of residential properties resulting from the application as HMOs are both below the 10% threshold which indicates if an area is considered to be imbalanced and in conflict with Policy PCS20.

8.6 Having regard to the above, the proposal would comply with the aims and objectives of Policy PCS20 of the Portsmouth Plan (2012).

The diagram overleaf shows the 50m radius and relevant properties, including Park House.



Standard of accommodation

8.7 The submitted plans have been checked by officers, and, notwithstanding the annotations on the submitted plans, the room sizes measured by officers have been used for assessment purposes. For the proposed 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	9 sqm	6.51 sqm
Bedroom 2	13.9 sqm	6.51sqm
Bedroom 3	8 sqm	6.51 sqm
Bedroom 4	15 sqm	6.51 sqm
Bedroom 5	6.7 sqm	6.51 sqm
Bedroom 6	11.5 sqm	6.51 sqm
Bedroom 7	12.9 sqm	6.51 sqm
Bedroom 8	12 sqm	6.51 sqm
Bedroom 9	11 sqm	6.51 sqm
Bedroom 10	10.4 sqm	6.51 sqm
Bedroom 11	10.8 sqm	6.51 sqm
Ground floor Kitchen	13 sqm	11 sqm
Laundry (off GF kitchen)	4 sqm	Not required
Ground floor dining and Lounge	26 sqm	14 sqm
Ground floor lounge	14.5 sqm	14 sqm
First floor kitchen	11 sqm	11 sqm
Ground floor bathroom	4.9 sqm	3.74 sqm
First floor bathroom	3.8 sqm	3.74 sqm
First floor WC	2 sqm	1.7 sqm
First floor bathroom	3.8 sqm	3.74 sqm
Second floor bathroom	3.4 sqm	3.74 sqm
En-suite bathroom (RM8)	2.8 sqm	2.74 sqm

- 8.8 The proposal seeks occupation of the property by eleven persons. The HMO SPD sets out the size standards for communal living rooms (kitchen, dining, sitting, or combined) for six or more persons, as follows:

One combined communal kitchen-dining-living room, 34 sqm.

or

Dining room, 14 sqm;

Living room, 14 sqm;

Kitchen, 11 sqm.

- 8.9 As the table above shows, proposed are two kitchens both exceeding 11 sqm, and two living rooms, one at 14.5sqm, and one at 26 sqm. On a purely numerical basis the proposal exceeds the minimum standards, and on a more subjective basis is considered to also provide communal rooms perfectly suitable in size and layout. The 14.5 sqm living room would be served by five doors so has less wall space against which to locate furniture, TV etc., but it would nevertheless still provide a useable, second communal living room.
- 8.10 All the bedrooms easily exceed the minimum size standard. For an HMO this size, 3 bathrooms and 3 WCs (two of the WCs can be contained within 2 bathrooms) are required. This application has 3 bathrooms (more than 3.74sqm), 1 shower/wc, 1 WC and 1 ensuite. The second floor bathroom has a minor shortfall to the SPD, more than offset by the over-provision of shower/wc rooms.
- 8.11 Two ground floor bedroom windows adjoin the mews courtyard, so the rooms would be subject to potential loss of privacy and disturbance from occasional parking cars. However, this is the existing situation and is clearly a long-term and historic relationship.

Impact on the amenity of neighbouring residents

- 8.12 In terms of the impact on the living conditions of the adjoining occupiers, there is an increase in occupation compared to what was previously there when the building was used as unlawful flats. This could in turn result in an increase in noise and disturbance on the neighbouring residents. When the building was used as a guest house, it consisted of 8 bedrooms. There was also a bar on the ground floor for guests. If the building was used as a guest house, it could be deemed to generate a similar level of disturbance as the proposed HMO, albeit perhaps of a different nature (i.e. no bar). The occupancy of this sizeable building by eleven persons is not considered excessive at all, and the comings-and-goings and other day-to-day effects of residential occupation would not be so different to other residential uses, and in any event would not be considered to be harmful to surrounding residents' amenities.
- 8.13 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 of the SPD 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, the proposal is acceptable.
- 8.14 It is therefore considered there would not be a significant impact on neighbouring residential amenity from the proposal.

Highways/Parking

- 8.15 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 for 2 off-road spaces for Sui Generis HMOs with four or more bedrooms.
- 8.16 The last lawful use was a guest house which had 8 bedrooms. There is no set parking standards for that Class C1 development however no parking has ever been provided at this site. The proposal has no off-street parking, which represents no change to how the

building was previously used. The proximity to the amenities and facilities of the local centre is noted, including bus services.

- 8.17 There are no objections from the Local Highways Authority on highway safety grounds.
- 8.18 The Council's Adopted Parking Standards set out a requirement for HMOs with 4 or more bedrooms to provide space for the storage of at least 4 bicycles. A bike store for 4 bikes is shown inside the building.

Waste

- 8.19 The storage of refuse and recyclable materials is accommodated in the existing single storey element of the building on the south east corner. It is important that it is either not locked, or all the occupiers know the code to unlock the door to enable it to be used exclusively by residents of the building. These details can be secured by condition.
- 8.20 The residents having access to the store should mean they are not using neighbouring bins or littering.

Impact on Solent Habitat Sites

- 8.21 The development would have a likely significant effect on the Solent habitat sites, notably Special Protection Areas and Special Areas of Conservation, as a result of an increased level of nutrient discharge into the Solent from net additional residential accommodation. The LPA has undertaken an Appropriate Assessment and, in consultation with Natural England, it is agreed that should permission be agreed by committee, a legal agreement to secure nutrient mitigation will be required prior to the issue of a decision notice and pursuant to the Nutrient Neutral Mitigation Strategy (2022). A contribution for Bird Aware will also be captured within the S111, to mitigate for recreational bird disturbance.

Other Matters raised in the representation

- 8.22 **Cycle Parking**
Concerns have been raised regarding the position of the cycle store and the vehicles parking in the garages of The Mews. The properties within the Mews have a right of way over the courtyard area but no right to park in the area. The first garage on the left upon entry to the courtyard has always been restricted as there was previously a small external store located where the bike store is proposed. The building made it hard for a car to manoeuvre into the garage. The remaining garages would be unaffected by the proposal. The position of the cycle store was therefore re-considered, and taken inside the building to remove any impact it could have on the garages.
- 8.23 **Airbnb use**
Since August 2024, the building has been used as an "Airbnb" which does result in a large turnover of occupiers. Using the building as an HMO could provide some stability to the use of the building.
- 8.24 **Smoking**
Concerns have been raised that the courtyard could be used as a smoking area. This area is within the applicant's ownership and therefore could be used for smoking. This would be the same if the building was used as a guest house, family home, etc. It could be mentioned to residents of the HMO, that if they are to smoke, then to be considerate to the neighbouring properties of The Mews.

Human Rights and Equality Act

- 8.25 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.

- 8.26 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.

CIL

- 8.27 Portsmouth City Council introduced its Community Infrastructure Levy (CIL) charging schedule in April 2012 with a basic CIL rate of £105/sqm. The CIL regulations require indexation to be applied to this rate annually using the RICS CIL Index and the 2025 basic rate is £184.10/sqm. Most new development which creates 100sqm or more of gross internal area or comprises a dwelling is potentially liable for the levy. However, exclusions, exemptions and reliefs from the levy may be available.

9.0 CONCLUSIONS AND PLANNING BALANCE

- 9.1 As detailed above the application is considered to fully comply with the relevant policies of the Local Plan and the objectives of the National Planning Policy Framework (2024). It is recommended that permission be granted subject to the imposition of conditions and mitigation for Solent nutrients and recreational bird disturbance.

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

- A) The mitigation of the impact of the proposed development on Solent Special Protection Areas (recreational bird disturbance and nitrates) by securing the payment of financial contributions .

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 agreed within two months of the date of this resolution.

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 drawing - Drawing numbers: Site Plan drawing number 02 rev 01, Full Plans drawing number 01 rev 07

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

3. Cycle Storage

The cycle storage room shown on the approved plans shall be retained for the specified use for the lifetime of the development.

Reason: To ensure that adequate provision is made for cyclists using the premises in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.

4. Waste Storage

The waste storage on site and as shown on the plans shall be retained for the storage of waste from the property at all times.

Reason: To ensure that adequate provision for waste storage is provided in accordance with Policy PCS23 of Portsmouth Plan

5. Water Efficiency

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 as built will minimise its need for resources and not exceed the water usage accounted for in the Appropriate Assessment in order to comply with the Nitrate Mitigation Strategy and Policy PCS15 of the Portsmouth Plan.

6. Obscure windows

The bathroom windows on all floors shall be obscured glazed (frosted), to the minimum of Pilkington Grade 3.

Reason: To protect the privacy and amenities of all parties, in accordance with policy PCS23 of the Portsmouth Plan (2012)