

21 WOODPATH SOUTHSEA PO5 3DX**CHANGE OF USE FROM DWELLINGHOUSE (CLASS C3) TO 2-BED ASSISTED LIVING HOME (CLASS C2)****24/00966/FUL | CHANGE OF USE FROM DWELLINGHOUSE (CLASS C3) TO 3-BED ASSISTED LIVING HOME (CLASS C2) | 21 WOODPATH SOUTHSEA PO5 3DX****Application Submitted By:**

Mr Ryan Townrow
RT Drafting Solutions Ltd

On behalf of:

Mr Charles O'Connor

RDD: 7th August 2024

LDD: 4th November 2024

1. SUMMARY OF MAIN ISSUES

- 1.1 This application has been brought to Planning Committee for determination due to the level of neighbour representation (sixteen objections from fifteen addresses) and due to a call-in from Cllr Graham Heaney.
- 1.2 The main issues for consideration are:
 - The principle of the development;
 - Impact on residential amenity;
 - Highway Impacts;
 - Human Rights and the Public Sector Equality Duty ("PSED") and
 - Other Issues.

2. SITE, PROPOSAL AND RELEVANT PLANNING HISTORY**2.1 Site and Surroundings**

- 2.2 The application relates to a two-storey semi-detached dwelling, located on the eastern side of Woodpath. The dwelling is the southern half of the pair of properties and is set back from the road by a small front garden, marked by a brick boundary wall. The dwelling benefits from a private rear garden. The property is located within the 'Owen's Southsea' Conservation Area No. 2 and is a more modern (1960s) addition; one of a group of eight later additions to the area including Nos.19-15 Woodpath and 41a, 41b, 43a and 43b Grove Road South. To the rear of the site is a collection of 4 garages (4 further garages are opposite these to the north) associated with the 19-15 Woodpath and the 4 properties along Grove Road South. The property is in a primarily residential area, however, is in close proximity (south of) Elm Grove, a local District Centre as defined by Policy PCS8 of the Portsmouth Plan. The architectural character of the area is mixed, with most of the road made up of two-storey dwellings of a variety of styles and ages, opposite the site is a post-war three-storey flat block, and at the northern end of the road is Friendship House, a five-storey building converted from offices to flats. Vehicular traffic on Woodpath is one-way, from north to south.

3.0 Proposal

- 3.1 Planning permission is sought for the change of use from dwellinghouse (Class C3) to 2-bed assisted living home (Class C2). It is understood that the use of the property has already commenced (in approximately the summer of 2024), and the proposal is therefore retrospective

and is currently occupied by one resident. The scheme has been amended during the course of the Application following discussion with Officers to more accurately describe what is actually proposed. Given the size and layout of the property, the Applicant has reduced the level of proposed occupancy from 3 to 2 residents. At the time of writing this report, updated floorplans are pending receipt and will be available prior to the Committee Meeting and Members updated via the Supplementary Matters Report (SMAT) - Bedroom 03 is to be re-labelled and allocated as a Staff Office/sensory room (which the Applicant has confirmed in writing already).

- 3.2 The proposal use is described as an assisted living facility, which is defined in Article 2 of the Use Classes Order 1987 as *"personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder and in Class C2 also includes the personal care of children and medical care and treatment"*. The existing contract for the property is commissioned by Hampshire County Council (HCC) and managed by Verve Homecare and is intended to provide care for young people aged between 14-17 years old.
- 3.3 The Applicant has set out that the staffing is to be based on the needs of the individual clients, if the site was fully occupied by 2 residents there would be a minimum of 2 staff up to a maximum of 3-4 staff, if the individuals' needs required this. It is worth mentioning that this level of staffing is lower than the existing facility for a single resident. The Applicant has stated that the existing facility is not suitable for the existing single resident's needs and this resident is to be re-located to a more appropriate facility.
- 3.4 The residents' day-to-day activities would depend on their individual needs, with some visiting off-site institutions during the day. Some residents would be in education during the day, those not in education would have a life skills pathway which would support them in planning to get back into education or help support them in building positive community involvement. The staffing needs would also be worked out based on the individual needs of the residents. The staffing presence within the facility would be 24/7: all day and all night.
- 3.5 Ofsted is the government Office for Standards in Education, Children's Services and Skills. It is noted that the site as existing does not have Ofsted Approval, the Agent has set out that they have yet to apply for Ofsted as an application cannot be approved until the lawful use has been established through a planning consent. If/when planning consent is achieved, they will then start to apply for Ofsted. Following approval, Ofsted review accreditation every three years.
- 3.6 No material external alterations are proposed as part of the proposal, it is noted that the Applicant has installed frosted glazing to the windows and doors of the building, these works do not meet the test for development as the work is not considered to be an engineering operation and is not considered to materially affect the external appearance of the building.

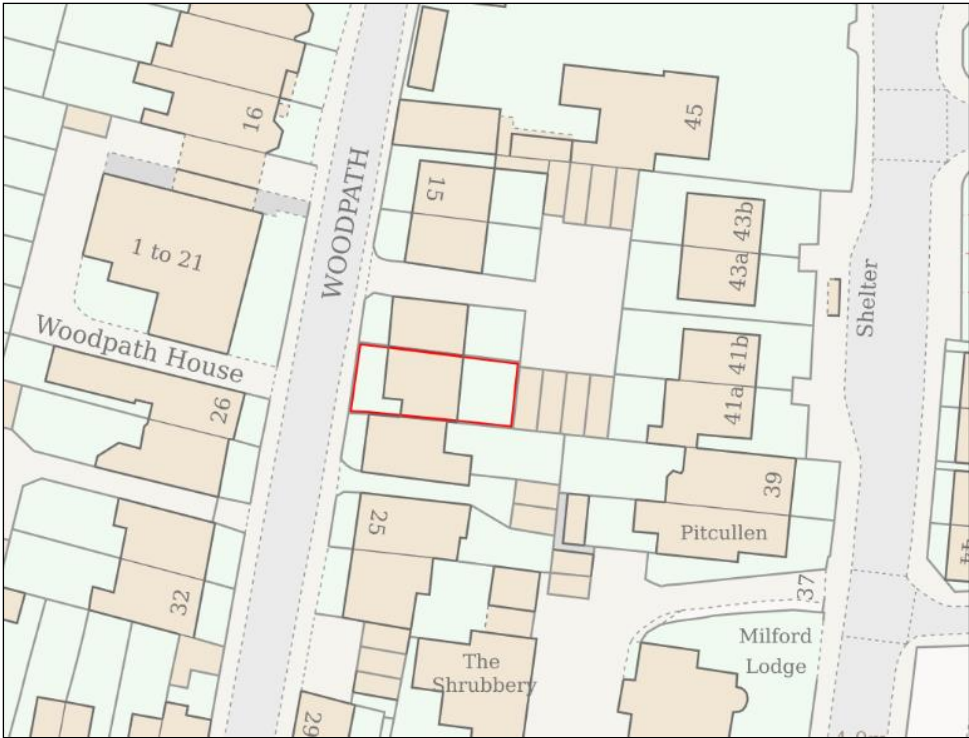


Figure 1 Site Plan

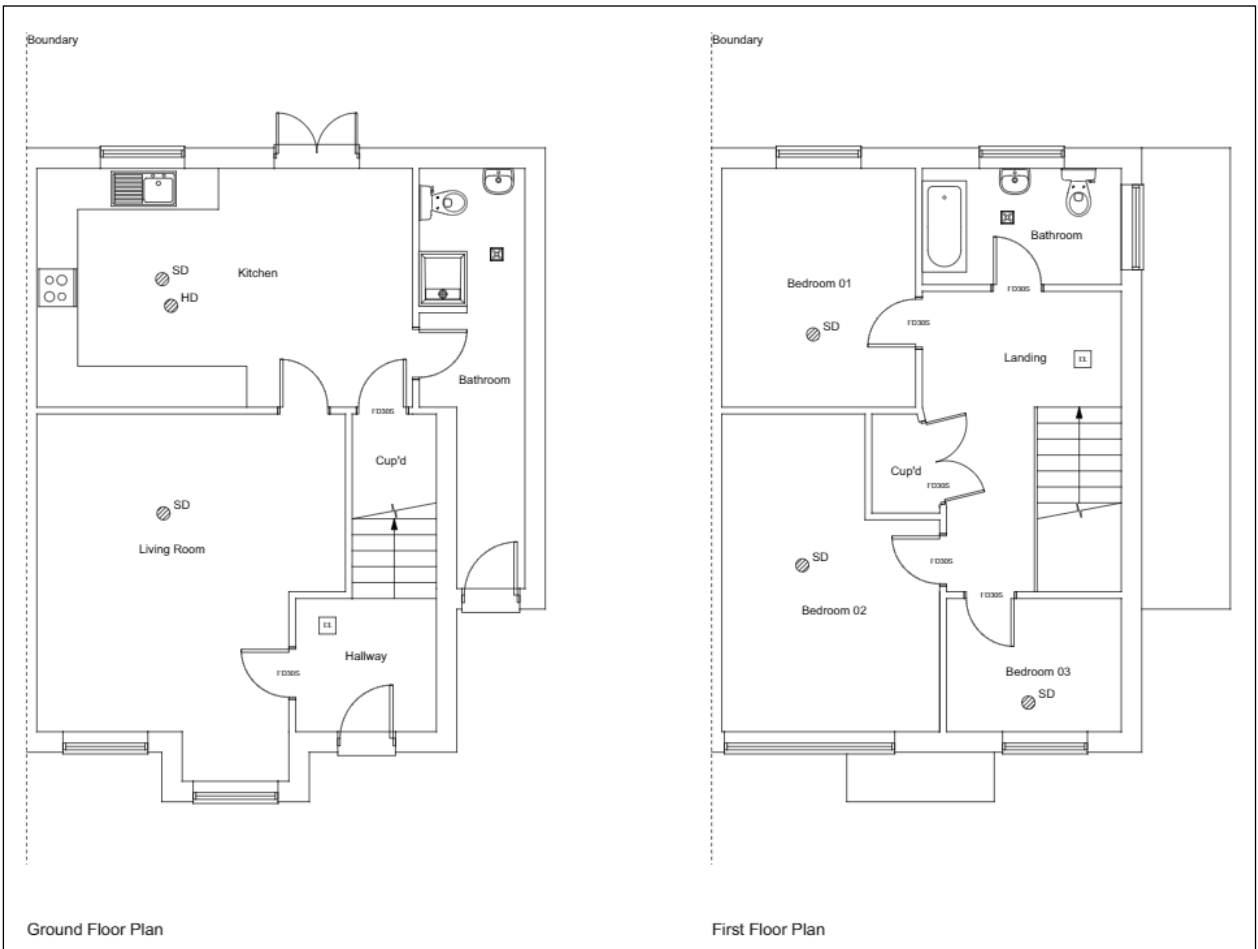


Figure 2 Proposed Floor Plan

4. Planning History

4.1 **A*24210/L** - Development of site by erecting 8 semi-detached dwellinghouses and formation of 8 car parking spaces. **PERMISSION** 27/01/1966.

5. POLICY CONTEXT

5.1 In addition to the aims and objectives of the National Planning Policy Framework, the relevant policies within the relevant policies within the Portsmouth Plan (2012) would include:

- PCS17 - Transport

5.2 In addition to the above development plan policies the following are also material to the determination of the application;

- Solent Recreation Mitigation Strategy (2017);
- Updated Nutrient Neutral Mitigation Strategy (June 2022);
- Housing Standards SPD (January 2013);
- Parking Standards & Transportation SPD (July 2014).

5.3 Pre-Submission Portsmouth Local Plan 2020-2040

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;
- Development Management Policy PLP19: Housing for Specific Groups
- Development Management Policy PLP22: Space Standards;
- Strategic Policy PLP42: Solent Waders and Brent Geese Sites;
- Strategic Policy PLP43: Nutrient Neutrality in International Nature Designations;
- Strategic Policy PLP47: Movement and Transport;
- Development Management Policy PLP48: Access and Parking;

5.4 Having regard to the NPPF paragraph 49, limited weight is given to those policies at this precise time.

6. CONSULTATIONS

6.1 Highways Authority

6.2 Woodpath is a residential road with parking accommodated through restricted on street parking. Amenities are available in close proximity within the surrounding area. I am satisfied that the proposal would not have a material impact upon the function of local highway network given the lawful use of a residential property.

6.3 Given the constraints of the site, no off-street parking can be accommodated within the curtilage of the property. Given the intended users of the site (children) It is not considered to result in any material impact to the parking pressure within the vicinity above the lawful use.

6.4 I note that in the letters of objections, concerns are raised about staff being dropped off, however it is not considered that this impact would breach the threshold as set out by Paragraph 115 of the NPPF 2023 and relevant case law.

6.5 The proposal does not indicate secure cycle storage, however there is sufficient space to accommodate within the rear garden, therefore a condition should be attached to provide this within 3 months of change of use.

6.6 Environmental health

- 6.7 The supporting documentation with the application does not specify any tenancy period for the occupants therefore it is difficult to assess as to whether the likelihood of noise or anti-social behaviour from the proposed occupants could become a regular occurrence as the property could be occupied by different tenants within any given period, and all with their own individual needs.
- 6.8 As the premise has been operating as an assisted living property, I have carried out a search on Regulatory Services complaints database and I can confirm that no noise complaints have been registered with this service. We, therefore, wish to raise no objections to this application being granted.
- 6.9 Health and safety executive
- 6.10 Does not meet the criteria requiring HSE comment concerning fire safety.

7. REPRESENTATIONS

- 7.1 16 representations have been received from 15 addresses objecting to the development on the following grounds:
- Anti-social behaviour (including property damage, trespass, bad language);
 - Noise and disturbance from use, alarms and emergency vehicles;
 - Noise from building work;
 - Poor management of the facility;
 - Inappropriate use given the residential character of the area;
 - Impact of parking and additional cars blocking road from number of carers;
 - Windows being boarded/frosted;
 - Work commenced prior to the application;
 - Confusion over children's home intention and assisted living facility description;
 - Discrepancies on the application¹;
 - Lack of detail over management (No Ofsted approval);
 - Pollution from car engines being left running;
 - Light pollution, property being illuminated 24/7; and
 - Lack of communication from Applicant.

¹: Number of employees and if the use has commenced.

8. COMMENT

- 8.1 The main issues for consideration are:
- The principle of the development;
 - Impact on residential amenity;
 - Highway Impacts;
 - Human Rights and the Public Sector Equality Duty ("PSED") and
 - Other Issues.
- 8.2 The principle of the development
- 8.3 The proposal results in the loss of one single dwellinghouse (Class C3) and replaces this with an assisted living facility (Class C2). The site would therefore remain within residential occupation, just of a different form of accommodation. Given the limited scale of the site and change of use applied for, the proposal is acceptable in principle, subject to the below material considerations.
- 8.4 Impact on residential amenity
- 8.5 Policy PCS23 requires that new development protect the amenities of existing residents while requiring a good standard of amenity for future occupants.

- 8.6 As stated the proposal does not include any external alterations that require Planning Permission, and therefore it is not considered that the work would result in any loss of light, privacy, or increased sense of enclosure for neighbours as a result of the proposed change of use.
- 8.7 The proposal would however result in a different use to the previously existing circumstance as a single dwellinghouse, due to the likely increased comings and goings at the site, and its general occupation. The change in use may create additional noise and disturbance from the comings and goings of staff, when compared to a typical Class C3 residential property, but this increase is not considered so significant as to cause officer concern. Otherwise, day-to-day living, i.e. cooking, washing, talking, watching TV, listening to music, would not be expected to be so different to a that experienced within a Class C3 dwellinghouse.
- 8.8 It is noted from neighbours' objections that there are existing noise issues at the property. It should be appreciated that the Application is not for a specific resident or management company, it is for a land use, being Class C2. It is the management of the land use that is most likely to determine the effects of its occupation upon neighbours. Other regimes are better equipped to ensure the appropriate management of the facility, including Ofsted who licence the operator of the property. Any additional concerns around noise and disturbance would be addressed to Regulatory Services (PCC). When considered against the overall use, subject to appropriate management of the site and residents, it is not considered that the use should generate significantly more noise than a typical Class C3 residential property.
- 8.9 Occupants
- 8.10 With regard to the amenities of future occupants, it is necessary to consider the proposed size of the units proposed and whether these would accord with the Government's Internal Space Standards.
- 8.11 It is considered that the Nationally Described Space Standards are the appropriate reference for this determination (the standards deals with internal space within new dwellings and is suitable for application across all tenures). As stated, the occupancy of the site has been reduced to two, as the third bedroom was not considered to be an appropriate size. The site otherwise is suitable for the proposed level of occupancy, with both the bedrooms above the NDSS standard of 7.5m² and the overall layout is considered to be acceptable.
- 8.12 In terms of outdoor space, the scheme would provide for good levels of outdoor space for the use thereby adhering to the objectives of Policy PCS23 of the Local Plan and paragraph 130(f) of the NPPF.
- 8.13 Highway Impacts
- 8.14 Policy PCS17 ensures that the City Council and partners will reduce the need to travel and provide sustainable modes and promote walking and cycling.
- 8.15 The Highways Authority reviewed the submission and have confirmed that the traffic generation from the proposal is unlikely to have a material impact on the operation of the broader highway network nor is any objection raised to the proposed access.
- 8.16 The residents themselves would not have access to a car, and the only traffic generation would be from the staff coming and going to the use. The agent has outlined there would be a minimum of two staff on site at any one time, assuming they arrive separately, this level of parking demand is comparable to a three-bedroom dwelling, which was the previous use of the site. While there may be occasions where more staff are present on site, it is not considered that the level of additional parking demand would be at a level to justify the refusal of the scheme. There are bus services nearby on Elm Grove and Grove Road South, and Fratton and Portsmouth & Southsea train stations are 1.4 and 1.5km away.

8.17 The proposal would also require 3 cycle parking spaces, and there is appropriate space in the rear garden to secure this through a condition. The cycle parking is considered to be acceptable and the scheme as whole is therefore considered to accord with Policy PCS17 of the Portsmouth Plan (2012).

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

8.19 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.

8.20 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 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.

8.21 Other issues raised in objection, not yet addressed above

8.22 It is acknowledged that the existing use is generating complaints and issues, but this appears principally due to the existing resident at the site. This resident is to be moved to a more appropriate facility, with appropriate residents and management it is not considered that the proposed use should result in a significant level of anti-social behaviour.

8.23 Given the relatively low level of occupation of the site it is not considered that the use would be inappropriate to the residential character of the area as the overall use would remain residential.

8.24 As stated the windows being frosted over is not considered to amount to development, though the matter has been raised to the Applicant. The lights being kept on at night has also been raised to the Applicant but this does not amount to a matter that could constitute a Reason for Refusal.

8.25 The use by the existing resident did commence prior to the application being submitted; the Officers understanding is that the site was needed at short notice and the Applicant chose to house the person in their care.

8.26 For completeness: while the applicant's specific intention is to use the site as a children's home, the 'umbrella' Class C2 Use Class for an assisted living facility has been applied for and therefore, if granted planning permission, in the future the premises could be occupied by other persons needing assistance, who may or may not be children and who may have different needs and staffing.

8.27 Two errors are noted in the Application form relating to the commencement of the use and the number of employees, these matters have been fully examined within the Application and are not considered to be grounds to refuse the application or delay its decision.

8.28 The impact from pollution from car engines kept running during staff changeover is not considered to be sufficient reason to refuse the application, as the impact would be minimal.

9. Conclusion

9.1 Having considered that there would be no significant/unacceptable adverse impacts on residential amenity or the surrounding highway network, the development would contribute to the

achievement of sustainable development as required by the NPPF: the provision of residential accommodation for people in need of assistance would be a positive social objective.

RECOMMENDATION - Conditional Permission

CONDITIONS:

Approved Plans

1) Unless 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 - PP-13309804v1; and Plans and Elevations - 2024-073 003.

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

Bicycle Storage

2) Within 3 months of the date of the permission, secure and weatherproof bicycle storage will be provided in accordance with a detailed scheme first submitted to and approved in writing by the Local Planning Authority. The bicycle storage shall thereafter be permanently retained for the storage of bicycles at all times.

Reason: To ensure adequate provision for and to promote and encourage cycling as an alternative to use of the private motor car in accordance with policies PCS14, PCS17 and PCS23 of the Portsmouth Plan (2012).

Occupancy Condition

3) The proposal hereby approved shall not be occupied by more than two residents at any one time.

Reason: In order to provide an acceptable standard of accommodation for the proposed end users in accordance with Policy PCS23 of the Portsmouth Plan (2012).

PRO-ACTIVITY STATEMENT

In accordance with the National Planning Policy Framework the City Council has worked positively and pro-actively with the applicant through the application process, and with the submission of amendments an acceptable proposal has been achieved.