

194 LABURNUM GROVE PORTSMOUTH PO2 0EU

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

[24/01448/FUL | Change of use from dwellinghouse \(Class C3\) to purposes falling within Class C3 \(dwellinghouse\) or Class C4 \(House in Multiple Occupation\) | 194 Laburnum Grove Portsmouth PO2 0EU](#)

Application Submitted By:

Mr O Farr
Applecore PDM

On behalf of:
K Niemiec

RDD: 28.11.2024

LDD: 23.01.2025 (EoT 12.02.2025)

1. SUMMARY OF MAIN ISSUES

- 1.1 The application is brought before Planning Committee due a call in from Cllr. Swann and six or more letters from separate addresses having been received objecting to the proposals.
- 1.2 The application is for the change of use of the property from a dwellinghouse (Class C3) to a flexible use of a dwellinghouse (Class C3) or House of Multiple Occupation (HMO) (Class C4). The main issues for consideration in the determination of the application are set out in para. 8.1 below.

2. SITE AND SURROUNDINGS

- 2.1 The application relates to a two-storey mid terrace dwellinghouse (Class C3) located on the southern side of Laburnum Grove as shown in Figure 1 below. The dwellinghouse sits back from the pavement with a small front yard and to the rear of the property is an enclosed garden. The existing layout comprises of a shower room, dining room, kitchen and living room at ground floor level; three bedrooms and a bathroom at first floor level.
- 2.2 The application site is within a predominantly residential area characterised by terraced dwellings, largely of two stories.



Figure 1 Site Location Plan

3. PROPOSALS

- 3.1 Planning permission is sought for the change of use of the property from a dwellinghouse (Class C3) to a flexible use of a dwellinghouse (Class C3) or House of Multiple Occupation (HMO) (Class C4).
- 3.2 The proposed internal accommodation, as shown in Figure 4 below, comprises the following:
- Ground Floor - two bedrooms (single occupancy) both with en-suite bathrooms; communal combined amenity area
 - First Floor - Three bedrooms (single occupancy) all with en-suite bathrooms

- 3.3 The Applicant has stated that no operational development, including extensions would be required or undertaken as part of this application. One ground floor window would be blocked up, with one window for the kitchen inserted, also at ground floor level

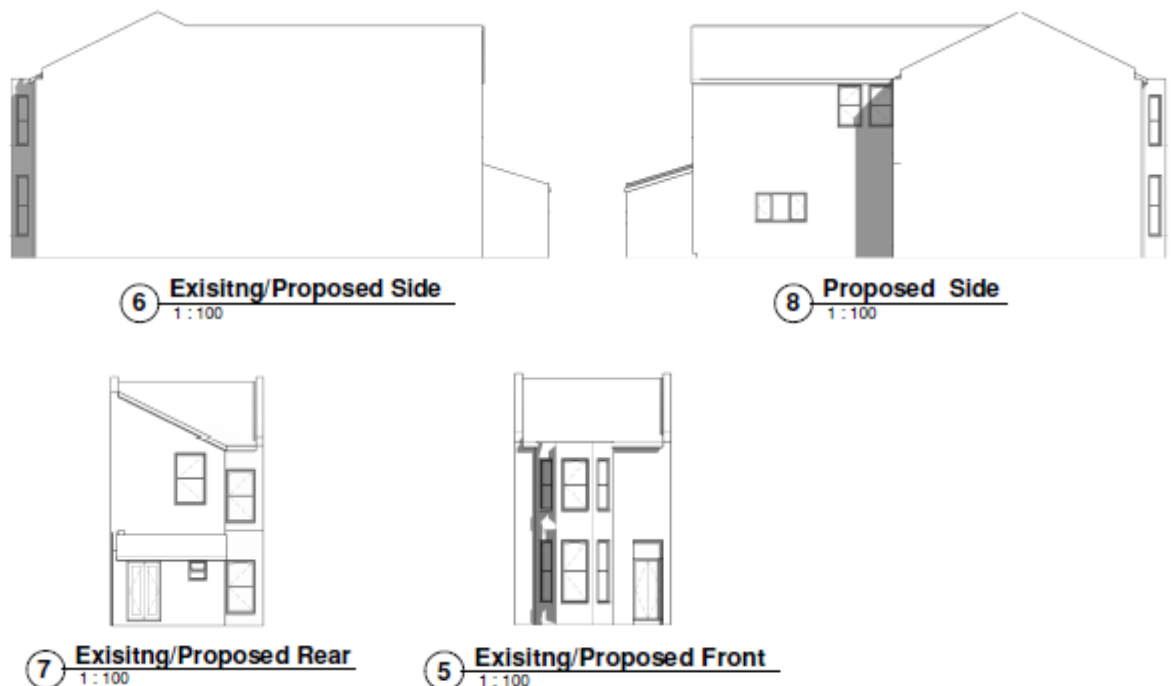


Figure 2 Proposed Elevations

4. PLANNING HISTORY

- 4.1 No relevant planning history

5. CONSULTATIONS

5.1 Highways Team

No objection - Laburnum Grove is a predominately residential road with bus stops and local amenities in close proximity along Copnor Road and London Road. It is not considered the addition of two bedrooms would lead to a material impact to the function of the highway. There may be increase insistences of vehicles hunting for space in the vicinity, this is however an issue of residential amenity for your consideration of the application. Condition required for secure cycle storage.

5.2 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. REPRESENTATIONS

- 6.1 Letters to adjoining properties were sent on 11.12.24. A Site Notice was erected outside the site on 17.12.24.
- 6.2 13 representations have been received in respect of the proposals. All 13 object to the scheme. 5 of these letters were provided without the postal address of the objector.

6.3 The following objections were made to the scheme;

- Increase in noise and disturbance including in construction;
- Increase in crime and anti-social behaviour;
- Lack of car parking provision leading to an increase in traffic and exacerbation of existing on-street parking problems including provision of dropped kerbs;
- Undue strain on local services and infrastructure, including sewage, drainage, waste management and Doctors/Dentists
- Concerns about impact on community and loss of family dwelling
- Works have already commenced
- Over occupation of the property
- Overdevelopment of the site and issues with room sizes
- Concentration of HMOs in the local area
- Accuracy of HMO data held by the council, with particular focus in the Copnor area

6.4 The following points were also made which are not considered to be material considerations in the determination of the application;

- 10% radius rule and process should be reviewed

7. POLICY

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 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)

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

Pre-Submission Portsmouth Local Plan 2020-2040

The draft Pre-Submission Portsmouth Local Plan 2020-2040 was approved for Regulation 19 consultation and submission for Examination at the meeting of Full Council on 28 May 2024 and consultation on the Pre-Submission Local Plan closed in September 2024.

- PLP1: Design
- PLP20: Houses in Multiple Occupation
- PLP22: Space Standards
- PLP47: Movement and Transport
- PLP48: Access and Parking

7.3 Having regard to the NPPF paragraph 48 and the stage the emerging plan has reached in its preparation, limited weight is given to the above policies at this precise 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:

- The principle of development;
- Housing land supply
- 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 Permission is sought for the flexible use of the property for purposes falling within Class C4 (house in multiple occupation) (HMO) or Class C3 (dwellinghouse). Under Part 3, Class V of the Town and Country Planning (General Permitted Development) (England) Order 2015, where planning permission is granted for a such a flexible use and the permission is implemented, the use of the property may change between C4 and C3 use for period of 10 years from the date of the consent. 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'.

8.4 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.

8.5 Based on the information held by the City Council, of the 60 properties within a 50-metre radius of the application site, there are four confirmed HMOs (Class C4) at as shown in Figure 4 below. 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.

- 8.6 Following further Officer Investigation, no additional HMOs have been uncovered by our investigations. Including the application property, the proposal would bring the percentage of HMOs within the area up to 8.3%. This would be lower than the 10% threshold set out in the SPD and therefore the scheme complies with Policy PCS20.
- 8.7 Objections have raised additional allegedly unauthorised HMOs within the 50m radius. Officers have checked council tax, land registry and HMO licensing data. No evidence has been found that the properties are not in a C3 use. Private Sector Housing are conducting their own investigation into a property. There is therefore no evidence before Members that 189 Laburnum Grove (or others) are a HMO and even if it were, the percentage of HMOs would then be 10% (6 of 60 properties). The criteria in the adopted HMO SPD is a community will be considered to be 'imbalanced' where more than 10% of residential properties within a 50m radius of the area surrounding the application property are already in HMO use. Therefore, the scheme complies with the adopted Guidance.



Figure 3 Existing HMOs within 50m of the application site

- 8.8 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 caused by this proposal with this guidance.
- 8.9 Having regard to the above, the proposal would comply with the aims and objectives of Policies PCS19 and PCS20 of the Portsmouth Plan (2012) and the HMO SPD.
- 8.10 **Housing Land Supply**
- 8.11 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 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 195). 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 this Framework that protect areas or assets of particular importance provides a strong 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 this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

8.12 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 access to public transport, retail and services, employment, leisure, health facilities, etc. The application is therefore acceptable in principle, complies with Policies PCS19 & PCS20 and these factors weigh in favour of the proposed development. The further, specific impacts of the proposal will be considered below as to whether the development is appropriate in detail.

8.13 Standard of Accommodation

8.14 The application seeks in addition to a C3 use, the opportunity to use the property as a C4 HMO which would in planning terms allow occupation by up to six individuals. The Applicant has referred to five occupiers in the submission, but a C3/C4 consent would allow up to six persons when in C4 use. This application has been assessed for six persons when in C4 use.

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 in Table 1 below.

Room	Area Provided	Required Standard
Bedroom 1 (single occupancy) (ground floor)	12.1m ²	10m ²
Bedroom 2 (single occupancy) (ground floor)	10.2m ²	10m ²
Bedroom 3 (single occupancy) (first floor)	14.8m ²	10m ²
Bedroom 4 (single occupancy) (first floor)	10.2m ²	10m ²
Bedroom 5 (single occupancy) (first floor)	15.7m ²	10m ²
Combined Living Space	26.8m ²	22.5m ² (where all rooms are in excess of 10m ²)
Bedroom 1 ensuite	2.9m ²	2.74m ²
Bedroom 2 ensuite	2.9m ²	2.74m ²
Bedroom 3 ensuite	2.8m ²	2.74m ²
Bedroom 4 ensuite	2.75m ²	2.74m ²
Bedroom 5 ensuite	4.3m ²	2.74m ²

Table 1 Schedule of Floor sizes

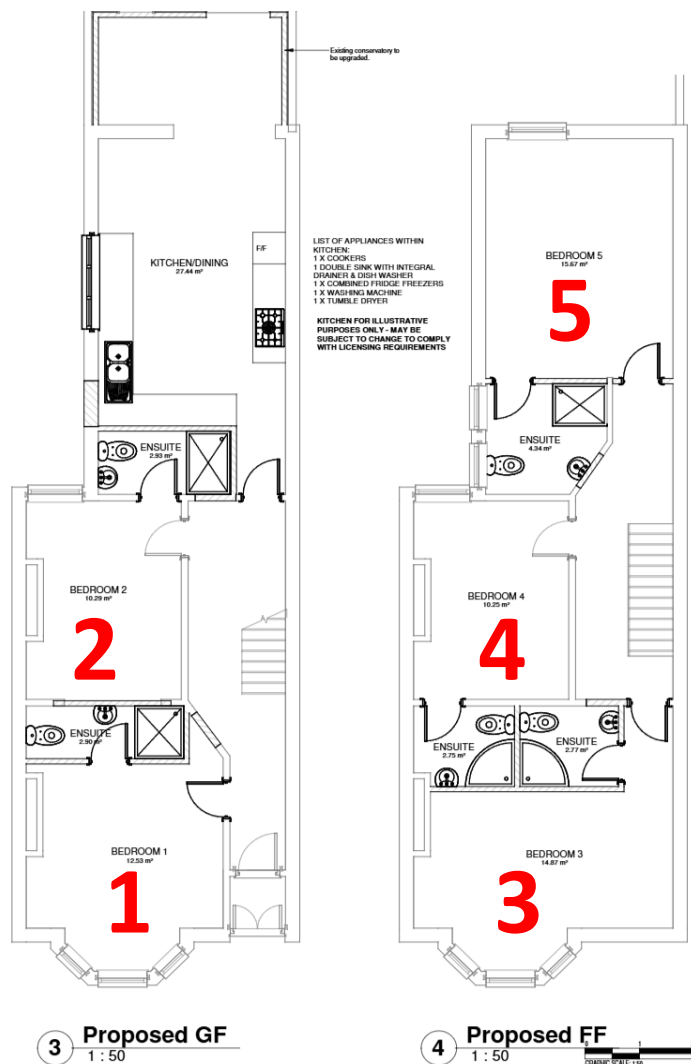


Figure 4 Proposed Floorplans

8.15 All of the rooms accord with the standards as set out within the HMO SPD (October 2019) and 'The Standards for Houses in Multiple Occupation' document dated September 2018. Furthermore, all habitable rooms would have good access to natural light. An unrestricted C4 consent could allow up to six occupiers. The combined communal area is in excess of the required 22.5m² for six occupiers, the bedrooms all comply. Occupancy of the property by six persons would require double occupancy of one of the bedrooms, which is achievable as two of the bedrooms exceed the 14sqm standard for double occupancy.

8.16 The scheme therefore complies with Policy PCS23 and the HMO SPD in this regard.

8.17 Impact on neighbouring living conditions

8.18 In terms of the impact on the living conditions of the adjoining occupiers, it is considered that the level of activity associated with the use of the property either 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 3 and 6 unrelated persons as a house in multiple occupation. This is borne out by the fact that without an Article 4 Direction made in 2011, the application would be permitted development under

Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015 and would not require planning permission.

- 8.19 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 an additional HMO is acceptable. The HMO SPD & PCS20 specifically permits additional HMOs in such locations in order to support mixed and balanced communities.
- 8.20 Whilst activity in regards to coming and goings to the site as well as cooking and general household activities, through the occupants possibly not acting as a collective and therefore cooking meals on an individual basis, may be increased with the introduction of a HMO in this location. However, it would not result in an overconcentration of HMOs within the surrounding area, and therefore it is considered that the impact of one further HMO (bringing the total to five within a 50m radius) would not have any demonstrable adverse impact to wider amenity.
- 8.21 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal and the scheme therefore complies with Policy PCS23 in this regard.

8.22 **Highways/Parking**

- 8.23 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 Class C4 HMOs with four or more bedrooms. The expected level of parking demand for a Class C3 dwellinghouse with up to 3 bedrooms (as existing) is 1.5 off-road spaces.
- 8.24 The C4 element of the proposal compared to the existing property has a requirement for an additional 0.5 parking spaces. The Highways Officer has not raised objection to this minor shortfall. As the level of occupation associated with a HMO is not considered to be significantly greater than the occupation of the property as a Class C3 dwellinghouse, it is considered that an objection on either highway safety grounds, or car parking standards, could not be sustained on appeal. It should be noted that the property could be occupied by a large family and/or with adult children, each potentially owning a separate vehicle.
- 8.25 The Council's Adopted Parking Standards set out a requirement for C4 HMOs to provide space for the storage of at least 4 bicycles. The property has a rear garden where secure cycle storage could be located. The requirement for cycle storage is recommended to be secured by condition.

- 8.26 The scheme therefore complies with Policy PCS17 in this regard.

8.27 **Waste**

- 8.28 The storage of refuse and recyclable materials would remain unchanged, and an objection on waste grounds would not form a sustainable reason for refusal.

8.29 **Impact on Special Protection Areas**

- 8.30 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 flexible C3/C4 use (both 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.

8.31 **Other matters raised in representations**

8.32 The 10% radius test is adopted planning policy and is the stated standard which the Council apply to such applications. Having adopted such a standard, where an application is submitted which complies with the Council's adopted criteria, an applicant can have a reasonable expectation that their scheme will be approved. Changes to the standard would need to be made via the local plan process.

8.33 **Human Rights**

8.34 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.

8.35 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 **CONCLUSIONS AND PLANNING BALANCE**

9.1 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) (2024).

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: •Location Plan - TQRQM24318162006713; Proposed Plans PG9135.24.2 Rev B

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

3. Cycle Storage

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.

Informative:

- a) Please be aware that an HMO license may be required. HMO licenses are assessed against new standards that may differ to those used in the Planning process and you are therefore advised to check the licensing requirements and standards prior to occupation. For more information, and to find out about our landlord accreditation scheme please contact the City Council's Private Sector Housing Team using the details below:

Email: housing.privatesector@portsmouthcc.gov.uk

Postal address: Private Sector Housing, Portsmouth City Council, Civic offices, Guildhall Square, Portsmouth, PO1 2AZ.

Phone Number: 023 9284 1659

- b) The dual use Classes C3/C4 hereby permitted allows the property to be used for either use interchangeably, overcoming the need for a new planning permission each time a material change of use from Class C3 to Class C4 occurs. It should be noted that 10 years from the date of this permission, the flexibility afforded by Schedule 2, Part 3, Class V of the Town and Country planning (General Permitted Development) (England) Order 2015 (As amended) ceases and the use of the property at that time becomes the singular lawful use.

Should you wish the property to continue as a dual use Class C3/C4 use after the 10 year period, you would need to make a further planning application.

Please inform the Local Planning Authority of the use of the property applicable at the expiry of the 10 year period.