

54 MONTAGUE ROAD PORTSMOUTH PO2 0NF**CHANGE OF USE FROM DWELLINGHOUSE (CLASS C3) TO A 7-BED/7-PERSON HOUSE IS MULTIPLE OCCUPATION (SUI-GENERIS)****[24/01412/FUL | CHANGE OF USE FROM DWELLINGHOUSE \(CLASS C3\) TO A 7-BED/7-PERSON HOUSE IS MULTIPLE OCCUPATION \(SUI-GENERIS\) | 54 MONTAGUE ROAD PORTSMOUTH PO2 0NF](#)****Application Submitted By:**

Mr O Farr
Applecore PDM

On behalf of:

J Chapman
Living Collective Ltd

RDD: 20.11.2024

LDD: 14.01.2025

EOT: 12.02.2025

1. SUMMARY OF MAIN ISSUES

1.1 The application is brought to committee because of the number of objections received.

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

- Principle of development;
- Standard of accommodation;
- Impacts on amenity of neighbouring residents;
- Highways/parking;
- Waste;
- Impact on the Solent Habitats Sites;
- Any other matters raised.

2. SITE AND SURROUNDINGS

2.1 The application site is a two-storey mid-terrace dwelling in a predominately residential area. It lies near the eastern end of Montague Road, near the junction with Beresford Road. Montague Road is one-way, from west to east. The site is in C3 (dwellinghouse) use. There is a back garden and there is a small, detached outbuilding near the southern boundary of the property. There is a tree in the back garden/on the side boundary with no. 52, which would not appear to be affected by the proposal. There is a shared alleyway leading from Beresford Road to the back garden. There is a three-storey flatted block to the south, off Beresford Road.

2.2 The surrounding area is characterised by similar two-storey terrace properties, it is noted that the site is 500m north-east of London Road, an area designated as local shops and services (North End) under PCS8 of the Portsmouth Plan (2012).

3. PROPOSALS

The proposal is for the use of the building as a 7-bed House in Multiple Occupation (Sui Generis). No external alterations are proposed as part of this application. Instead, the

external alterations shown benefit from permitted development rights (single storey rear extension under prior approval, and rear dormer within permitted development allowances, front rooflight). The existing rear lean-to structures would be demolished to allow for the construction of the prior approval extension. The applicant proposes to use the rear outbuilding for bike storage. The existing refuse store fronting Montague Road would be retained. There are various internal changes to the layout to re-configure the property for HMO use.

4. PLANNING HISTORY

- 4.1 **App No 24/00060/GPDC** - Construction of single storey rear extension; extending 6m from the rear wall, with a maximum height of 3m and measuring 3m to the eaves (following removal of existing projection(s))
Decision - Prior approval not required.
Date 30.10.2024

5. CONSULTATIONS

- 5.1 Highways Team
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. A condition related to bike storage is recommended.
- 5.2 Hampshire & Isle of Wight Constabulary
Comment on what measures might reduce the risk of crime based on the current crime trends. The measures could include for example lighting in the communal areas, tested and certified door sets (PAS24:2022) etc. Concerns about the proposed conversion resulting in increase in neighbour disputes and anti-social behaviour in the area.
- 5.3 Private Sector Housing
There is suitable living space for the proposed number of occupants and advise that this property would likely require to be licenced under Part 2, Housing Act 2004.
- 5.4 Natural England
No objection, subject to appropriate mitigation being secured.

6. REPRESENTATIONS

- 6.1 Letters to adjoining properties were sent on 18.12.24. Site Notice was erected outside the site on 24.12.24.
- 6.2 Twenty-six representations have been received in respect of the proposal, all objecting to the scheme. Six of these letters were provided without the postal address of the objector. Three of the addresses provided a total of seven comments.
- 6.3 The following objections were made to the scheme;
- Impact on parking;
 - NHS pressures;
 - Layout: Concerns about bedrooms 1 (head height) and 4 (space); concerns about bedrooms being double occupancy;
 - Need for a long-term sustainable housing solution for the city, reduce the HMO density 10% rule to 5% to maintain mixed and balanced communities;
 - Community - properties for families contribute to the community feel/ loss of family dwellings including teachers who need such accommodation;

- Environmental concerns - noise pollution, impact on the SPA, overflowing bins and lack of recycling;
- Excessive strain on the already crumbling utilities infrastructure (Gas, water, sewage and electricity).
- A request that the planning committee 'listen to the local residents';
- The proposal disregards the 50-metre rule: The proposed HMO is located next to an existing HMO, in clear violation of the 50- metre rule;
- Works should not be allowed to start until application has been approved, applicants should not be able to reapply if an application is refused;
- Accusation that the agent works with landlords who leave their properties in an unfinished and poor condition; skips outside of renovated HMOs take up parking space and are left for months.

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
- PCS20 - Housing in Multiple Occupation
- PCS17 - Transport

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 following draft policies are considered to be relevant:

- 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 49 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:

- Principle of development
- Standard of accommodation
- Impact on amenity including parking
- Impact on Solent Habitat Sites
- Human Rights
- Other matters raised

8.2 Principle of Development

8.3 The HMO SPD has been published to provide a tool for addressing the recognised impacts that HMO's may have in Portsmouth, most notably in relation to the residential amenity, both for occupiers of HMO's and neighbouring properties and the housing mix of certain communities. Two of the key matters of principle explained in the HMO SPD are the assessment of housing mix to ensure balanced communities and the application of minimum room sizes, reflecting those in force as part of the private sector housing licencing regime, to ensure an appropriate living environment for future residents.

8.4 The HMO SPD suggests a threshold of 10% of dwellings in any area of 50m radius as a maximum proportion of HMO dwellings to C3 single household dwellings. The relevant 50m radius area is currently made up of 2 HMOs out of 63 properties, a percentage of 3.17%. This proposal would increase the density of HMOs within the 50m radius to 4.76%, well within the 10% threshold. One of the two existing HMOs is next door at no. 56. The HMO SPD also describes a number of circumstances where new HMOs are considered not desirable, such as where they 'sandwich' single household dwellings between two HMOs or create three HMOs in a row next to each other. One of the objection comments made references to the 'violation of the 50m rule', as explained above the threshold of 10% would not be exceeded by the proposal, and the resulting two HMOs next to each other do not contravene the policy either.

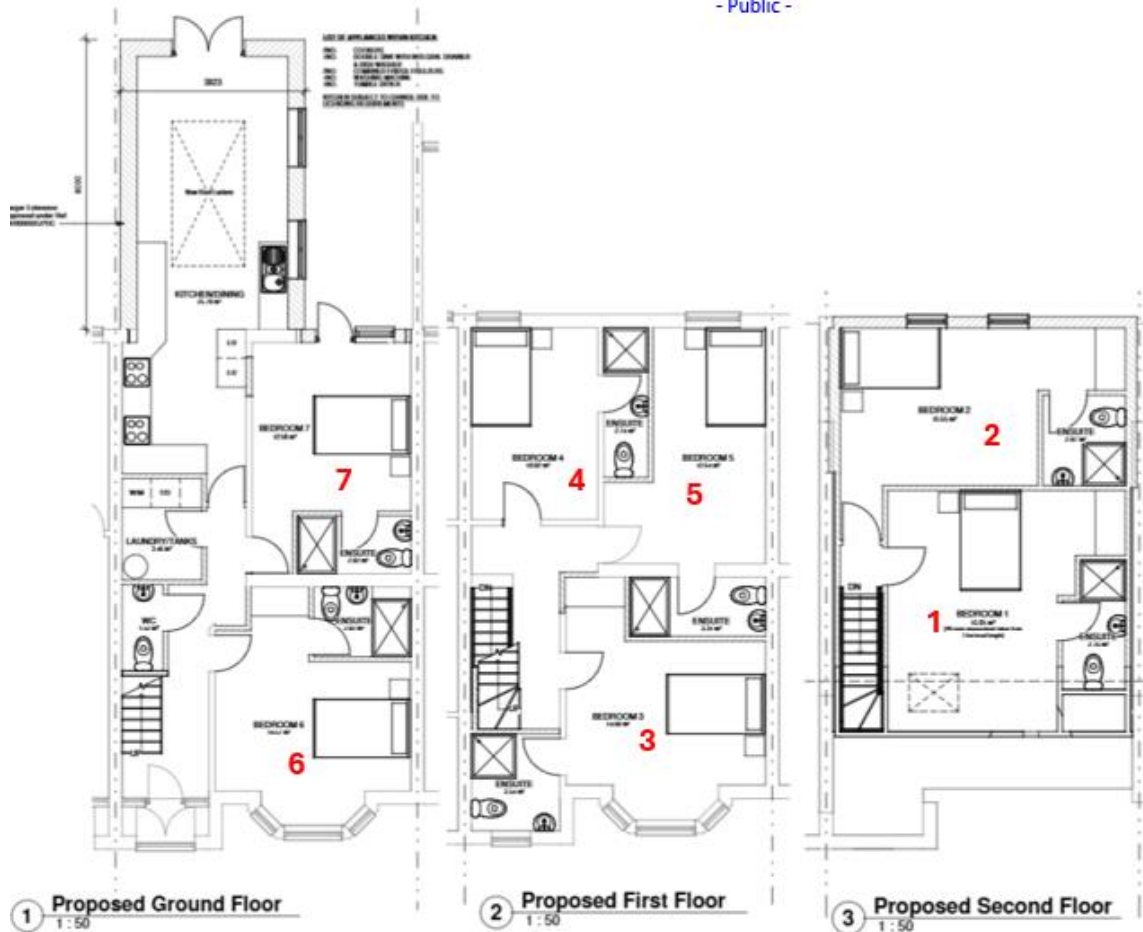
8.5 This proposal would result in the mixed and balanced community being maintained, and would not result in three adjacent HMOs next to each other, or a dwelling house being sandwiched. Therefore, it complies with policy PCS20 and HMO SPD 2019. The map below shows the properties within the 50m radius.



8.6 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 (single occupancy bedrooms) as shown in the table below.

Room	Area Provided (sqm)	Required standard (sqm)
Bedroom 1	15.01	10
Bedroom 2	15.55	10
Bedroom 3	14.80	10
Bedroom 4	10.02	10
Bedroom 5	12.64	10
Bedroom 6	14.57	10
Bedroom 7	12.48	10
Combined kitchen/diner	25.6	22.5
Ensuite shower rooms	range from 2.74 to 3.54	2.74



8.8 The proposal results in an internal layout that meets the Council's adopted space standards and is therefore considered to result in a satisfactory standard of living environment. Bedrooms 1 and 4 were highlighted in one of the objection comments as concerning, however the measurements provided above were taken from the 1.5m high line in bedroom 1, and bedroom 4 meets the required 10sqm standard. As such, the proposal complies with policy PCS20 and HMO SPD 2019.

8.9 **Impact on amenity including parking**

8.10 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 up to seven unrelated persons as a house in multiple occupation.

8.11 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.

8.12 The storage of refuse and recyclable materials would remain unchanged, to be accommodated in the suitable front forecourt area. An objection on waste grounds would not form a sustainable reason for refusal and it is not considered necessary to require details of formalised waste storage.

8.13 Having regard to these material considerations the change of use would not be significant on residential amenity.

8.14 Properties in HMO use with four or more bedrooms are required to provide two parking spaces which is the same as the requirement for parking spaces for properties in C3 use

class with four or more bedrooms (Parking Standards SPD 2014). The proposal has no off-street parking, which is no change from the fallback position.

8.15 Given the above, it is considered that refusal on a lack of parking is not reasonable or defensible. 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, or even more than 1 vehicle each. In addition, it is considered that the site is within an area of good accessibility and located within an acceptable walking distance of the various amenities and services, and bus routes.

8.16 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 for four bikes has been indicated in the back garden and this would be secured through a condition.

8.17 **Impact on Solent Habitat Sites**

8.18 As there is a measurable increase in occupancy from 2.4 persons (for a C3 dwelling) to 7 persons, mitigation for increased Nitrate and Phosphate Output into the Solent and Recreational Disturbance to the SPA is required. This would be secured through a s.111 agreement. An appropriate assessment was carried out and Natural England (NE) were consulted and did not object to the proposal subject to mitigation being secured (response received 20.01.25).

8.19 **Human Rights**

8.20 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.

8.21 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.

8.22 **Other matters raised in objections, not yet addressed in the above report**

8.23 It is not considered that the increase in occupation would result in a significant impact on the local sewer network, and this has been demonstrated by a Dismissed Appeal Decision (APP/Z1775/W/23/3330214) from last year for a proposed HMO on 61 St Chads Avenue. The Planning Inspector noted that "... the construction, operation and maintenance of an adopted sewerage system is the responsibility of the statutory sewerage undertaker, in this case, Southern Water, and the sewerage undertaker has a legal duty under S94 of the Water Industry Act 1991 to provide an effective system of sewers in its area. These sewers become public sewers to which the owners/occupiers of premises, and the owners of private sewers, have a right to connect and thereby drain foul water regardless of any capacity issues".

8.24 The development would accommodate up to seven 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 thereof represent a reason to withhold planning permission.

- 8.25 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 and would not be a reason to withhold a planning permission.
- 8.26 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 Plan formal consultation stage last summer, it cannot be taken in to account during the course of a planning application, the adopted SPD guidance still applies.
- 8.27 The current application is for change of use only, and the applicant is entitled to carry out the external physical alterations shown on the plans because they fall within permitted development or Prior Approval, and the internal alterations does not require planning permission in of themselves alone. With respect to a different objection comment: Planning legislation allows for retrospective applications and re-submissions of refused applications. The objector's concern about the state of properties and skips: in the event the application site is left empty and becomes very bad visually the Council may consider taking remedial action, but this is not a matter that can be used to refuse a planning application.

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).

RECOMMENDATION I - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to satisfactory agreement of an internal local authority approval mechanism (an equivalent legal agreement) to secure:

- (a) the mitigation of the impact of the proposed residential development on Solent Special Protection Areas (recreational disturbance and nitrates) by securing the payment of a financial contribution and conditions (below).

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 an internal local authority approval mechanism (an equivalent legal agreement) has not been satisfactorily agreed within one week of the date of this resolution.

RECOMMENDATION

Conditional Permission

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, block plan, PG.9132.24.02 B (proposed floor plans).

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, 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.

4. Waste Storage

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.

5. Water Efficiency

The proposal hereby permitted shall not (unless otherwise agreed in writing with the LPA) be occupied until written documentary evidence has been submitted to and approved in writing 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 water efficiency calculator.

Reason: To ensure that the development complies with PCS15 of the Portsmouth Plan and does not exceed the scope of Nitrate Mitigation Credits purchased.

6. PD Alterations

Prior to the occupation of the property as an HMO for seven persons, the single storey rear extension and rear dormer proposed to be constructed under permitted development allowances, and the Prior Approval extension 24/00060/GPDC, shall be completed.

Reason: In order to ensure that the property meets the required space standards and therefore provides a good standard of living in accordance with Policy PCS23 of the Portsmouth Plan.

Informatives:

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.
2. Two 360 litre bins are required for a 7 bed HMO, one for refuse and one for recycling. The applicant will need to purchase these bins directly from Portsmouth City Council Waste Management prior to the tenants moving in.