

25/00069/FUL

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133 Stubbington Avenue Portsmouth PO2 0JF

**CHANGE OF USE FROM DWELLINGHOUSE (CLASS C3) TO 8BED/8PERSON HOUSE OF MULTIPLE OCCUPATION (SUI GENERIS)**

[25/00069/FUL | CHANGE OF USE FROM DWELLINGHOUSE \(CLASS C3\) TO 8BED/8PERSON HOUSE OF MULTIPLE OCCUPATION \(SUI GENERIS\) | 133 STUBBINGTON AVENUE PORTSMOUTH PO2 0JF](#)

**Application Submitted By:**

Mr Joao Virtudes  
ArchiGold Design LTD

**On behalf of:**

NEXTGEN LETTINGS LTD

**RDD:** 24th January 2025

**LDD:** 9th April 2025

**1. SUMMARY OF MAIN ISSUES**

1.1 This application is brought before Planning Committee due to the number of neighbour representations received and due to call-in requests from Councillor Swann and Councillor Dent.

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

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

**2. SITE AND SURROUNDINGS**

2.1 The application site is a two-storey terraced dwelling in a predominately residential area, opposite the Church of the Ascension. Kings Academy College, and College Park Infants School, lie to the north between Croften and Lyndhurst Roads. Croften Road is one-way travelling south, and Lyndhurst Road is one-way travelling north, while bicycles are permitted both ways on both roads. The site is 585m from North End District Centre, which has a wide range of shops, services, buses and some employment. There are further shops at Ocean Retail Park, 1.065km to the east. There is significant employment at the industrial/commercial areas to the north-east. The site is 465m from College Park.

**3. THE PROPOSAL**

3.1 Planning permission is sought for the change of use of the property from a dwellinghouse (Class C3) to 8-bed/8-person House in Multiple Occupation (Sui Generis).

3.2 The application would retain bin storage in the front forecourt and bike storage would be accommodated in the shed in the rear garden - the site includes a direct rear pedestrian alley, from Croften Road.

- 3.3 The submitted plans also include details of a single storey rear extension, rear dormer and the installation of three rooflight. The extension has been granted Prior-Approval under 24/00075/GPDC and the dormer and rooflights comply with Classes B and C, Part 1, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). These works are to be carried out prior to the occupation of the property as a House in Multiple Occupation and therefore are not considered within this application. In order to ensure that these works are fully undertaken prior to the occupation a condition is included within the recommendation.
- 3.4 The submitted floor plans have been amended within the life of the Application in order to move an internal wall and thereby increase the floorspace available to Bedroom 2.



Figure 1 Proposed Elevations showing extensions and rooflights

#### 4. PLANNING HISTORY

- 4.1 **24/00075/GPDC**, Construction of single storey rear extension; extending 6m from the rear wall, with a maximum height of 2.8m and measuring 2.6m to the eaves.  
**Prior approval not required.**  
**06/01/2025.**
- 4.2 **25/00063/CPL**, Application for certificate of lawful development for proposed rear single storey extension and dormer to rear roofslope.  
**Certificate granted.**  
**04/03/2025.**

#### 5. POLICY CONTEXT

5.1 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).

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

**The Portsmouth Plan (2012)**

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

**Pre-Submission Portsmouth Local Plan 2020-2040**

The draft Pre-Submission Portsmouth Local Plan 2020-2040 was endorsed at 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

5.3 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.

**5.4 Supplementary Planning Documents**

5.5 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)

**5.6 National Guidance**

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

**6. CONSULTATIONS**

6.1 Private Sector Housing: the property needs a licence under Part 2, Housing Act 2004.

6.2 Highways: Stubbington Avenue is a predominantly residential road with bus stops and local amenities in close proximity. The proposal seeks to convert an existing 3 bed residential (c3) to a 8 bed Sui Generis use. The size of development would not lead to a material impact to the function of the highway or result in any unacceptable safety impact. Given the additional bedrooms, there may be increase insistences of vehicles hunting for space in the vicinity, this is however an issue of residential amenity for your consideration. Request a condition for bike storage.

## 7 REPRESENTATIONS

7.1 Twenty-six objections (as of 11/3/25) have been received in respect of the proposals. Two of the objection letters were provided without the postal address of the objectors. There are call-in requests from Councillors Swann and Dent, stating that residents wish for the case to be discussed at Planning Committee.

- Number of HMOs in the area and city already. Request for a change in Policy from 10% to 5% for the threshold for HMO Applications;
- Damage and disruption from building works;
- Loss of property value;
- Impact on parking - highway safety, air quality, emergency services access;
- Impact of local character and heritage;
- Impact from noise of the development;
- Impact of local services, including the sewer network;
- Increase instances of anti-social behaviour and crime;
- Proximity to local schools - due to traffic and safeguarding concerns;
- Loss of light from the extension to the adjoining neighbour;
- Safety and security from rear access gate being left open - noise from it being opened and closed late into the night;
- Lack of clarity in the plans, uncertainty around room sizes and if Bedroom 2 has over 75% of full height;
- Standard of accommodation and under provision of communal space;
- Loss of trees at the rear of the site;
- Loss of biodiversity;
- Increase from waste at the site;
- Loss of family housing within the city;
- Impact on the Solent Special Protection Area;
- Lack of notification for residents along Crofton Road;
- Concerns that the Prior-Approval Application is not lawful - due to the original floorplans showing a snug as opposed to a bedroom;
- Concerns over the accuracy of the plans due to lack of front door and queries over windows alignment on elevations against the floorplans;
- Overdevelopment of the site;
- Lack of clarity in the Application form over foul water disposal; and
- Fire safety.

## 8. COMMENT

8.1 The main issues to consider in the determination of this application are:

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

8.2 Principle

8.3 Five-year Housing Land supply.

8.4 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 (Footnote #7) 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 the 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

8.5 Currently, the Council can demonstrate 4.97 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 additional residential occupation in the building and make a small contribution towards the City's housing needs, at a sustainable location in the city, with good public transport, retail and services, employment, leisure, health facilities, etc. These factors weigh in favour of the proposed development. The further, specific impacts of the proposal must still be considered as to whether the development is appropriate in detail, as set out below.

#### 8.6 HMO Use

8.7 Planning permission is sought for the change of use of the property from a dwellinghouse (Class C3) to an 8-bedroom HMO (House in Multiple Occupancy) for 8-persons.

8.8 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.

8.9 Based on the information held by PCC, of the 35 properties within a 50-metre radius of the application site, none are confirmed HMOs as shown on the plan below. The percentage of HMOs within the area, should permission be granted, would be 2.86%. This falls well below the 10% threshold above which an area is considered to be imbalanced and in conflict with Policy PCS20.



**Figure 2** 50m radius search results.

- 8.10 A further policy strand introduced in July 2018, amended in October 2019, seeks to ensure that the amenity and standard of living environment of neighbours and local occupiers is protected. This is explained within Appendix 6 of the HMO SPD, which references the specific proximity of HMOs to adjacent dwellings and how these circumstances may give rise to a particular risk of harm to amenity and disturbance. These are where: the granting of the application would result in three or more HMOs adjacent to each other, or where the granting of the application would result in any residential property being 'sandwiched' between two HMOs. There is no conflict with this part of the guidance caused by this proposal.
- 8.11 Having regard to the above, the proposal would comply with the aims and objectives of Policies PCS19 and PCS20 of the Portsmouth Plan (2012).
- 8.12 Standard of accommodation
- 8.13 The application seeks to use the property as a 8-bed/ 8-person HMO. 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 below.

| Room                      | Area Provided:      | Size provided for in Guidance: |
|---------------------------|---------------------|--------------------------------|
| Bedroom 1 (Second floor)  | 10.05m <sup>2</sup> | 10m <sup>2</sup>               |
| Ensuite B1 (Second floor) | 2.75m <sup>2</sup>  | 2.74m <sup>2</sup>             |
| Bedroom 2 (Second floor)  | 15.27m <sup>2</sup> | 10m <sup>2</sup>               |
| Ensuite B2 (Second floor) | 2.75m <sup>2</sup>  | 2.74m <sup>2</sup>             |
| Bedroom 3 (First floor)   | 10.33m <sup>2</sup> | 14m <sup>2</sup>               |
| Ensuite B3 (First floor)  | 2.75m <sup>2</sup>  | 2.74m <sup>2</sup>             |
| Bedroom 4 (First floor)   | 10.38m <sup>2</sup> | 10m <sup>2</sup>               |

|                                      |                     |                    |
|--------------------------------------|---------------------|--------------------|
| Off suite B4 (First floor)           | 2.75m <sup>2</sup>  | 2.74m <sup>2</sup> |
| Bedroom 5 (First floor)              | 11.06m <sup>2</sup> | 10m <sup>2</sup>   |
| Ensuite B5 (First floor)             | 2.75m <sup>2</sup>  | 2.74m <sup>2</sup> |
| Bedroom 6 (Ground floor)             | 11.61m <sup>2</sup> | 10m <sup>2</sup>   |
| Ensuite B6 (Ground floor)            | 2.84m <sup>2</sup>  | 2.74m <sup>2</sup> |
| Bedroom 7 (Ground floor)             | 13.21m <sup>2</sup> | 10m <sup>2</sup>   |
| Ensuite B7 (Ground floor)            | 2.75m <sup>2</sup>  | 2.74m <sup>2</sup> |
| Bedroom 8 (Ground floor)             | 11.87m <sup>2</sup> | 10m <sup>2</sup>   |
| Ensuite B8 (Ground floor)            | 2.75m <sup>2</sup>  | 2.74m <sup>2</sup> |
| Combined Living Space (Ground floor) | 28.63m <sup>2</sup> | 22.5m <sup>2</sup> |



Figure 3 Proposed floorplans

8.14 As is shown in the table above, the proposal results in an internal layout that meets a straightforward appraisal against the Council's adopted space standards except for the communal space. However, the HMO SPD, at para 2.6, advises that more detailed guidance, beyond these headline requirements should be referred to within the Council's standards for Houses in Multiple Occupation Guidance (September 2018). This more detailed guidance applies lower minimum requirements (of 22.5m<sup>2</sup>) for combined living accommodation in circumstances where all bedrooms are at least 10m. In this instance, the communal room exceeds the minimum size standard. On the basis of the information supplied with the application this detailed guidance is considered applicable and the resulting layout is considered to result in a satisfactory standard of living environment

- 8.15 All habitable rooms have good access to natural light and in addition, a small rear garden also provides external amenity space for the residents. All the 8 bedrooms would have ensuite facilities, the accommodation therefore would provide a suitable overall arrangement of sanitary facilities.
- 8.16 The proposed layout complies with the Council's adopted standards and Policy PCS20.
- 8.17 Impact on residential amenity of the neighbours
- 8.18 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 eight unrelated persons as a house in multiple occupation.
- 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. 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.
- 8.20 Having regard to this material consideration, the impact of the change of use would not be significant on residential amenity. The scheme therefore complies with Policy PCS23 in this regard.
- 8.21 Parking
- 8.22 Properties in HMO use with four or more bedrooms are required to provide two parking spaces which is the same as 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.
- 8.23 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 with adult children, each potentially owning a separate vehicle, or even more than one 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.
- 8.24 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. The scheme therefore complies with Policy PCS17 in this regard.
- 8.25 Waste
- 8.26 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.
- 8.27 Impact on Special Protection Areas
- 8.28 As there is a measurable increase in occupancy from 2.4 persons (for a C3 dwelling) to 8 persons, mitigation for increased Nitrate and Phosphate Output into the Solent and



Recreational Disturbance to the SPA is required. Subject to Committee recommendation to approve, this will be completed following the resolution.

8.29 Community Infrastructure Levy (CIL)

8.30 The development would not be CIL liable as there would be no increase in the Gross Internal Area of the application property.

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

8.32 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.

8.33 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.

8.34 Other matters raised by the objectors

8.35 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*".

8.36 The development would accommodate up to eight 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 no evidence has been submitted to substantiate this claim.

8.37 The request for a different policy threshold for the percentage of HMOs in the 50m radius is a matter for the Local Plan process, for which public consultation took place last year. Until/unless alternative guidance is adopted, the adopted HMO SPD will continue to apply the 10% threshold. The HMO SPD exists to provide clarity to applicants and 3<sup>rd</sup> parties on the criteria the Council will apply to HMO applications. Where schemes can show they comply with the Council's stated guidance, applicants can have a reasonable expectation these will be supported in this regard.

8.38 Damaged caused due to building work is a private civil matter and if properly managed within the construction phase should be minimal to non-existent.

8.39 The impact upon the neighbouring property values is not considered material to the determination of this application.

- 8.40 The proposal would retain the overall frontage of the building, the site is not considered to be a formal heritage asset and therefore the work is considered not to have any negative impact on the heritage or character of the area.
- 8.41 The site's proximity to a school is not considered to place any constraint on of the use of the building as an HMO.
- 8.42 The extension is to be completed in accordance with Prior-Approval and is therefore not considered within the determination of this Application. It is noted that no objection was received in regard to the rear extension Prior-Approval Application.
- 8.43 The use of the property as a HMO should have no impact upon the safety and security of the rear access gate, occupants of a HMO have as much of an interest as any other occupant not to leave the gate unsecured.
- 8.44 The plans are considered to be accurate in regard to windows size and placement. Additionally, Bedroom 2 could achieve over 75% of its floorspace at full head height while still meeting the required space standard, however it is the Officers' view, that the space below full head height is still usable and beneficial, and it is better for the occupant to have this space than it be sectioned off behind an internal wall in order to meet this particular numerical aspect of the licensing regime.
- 8.45 The proposal would require the loss of one larger tree, and a smaller tree closer to the house, both within the rear garden. The trees are not designated under a TPO or within a Conservation Area and therefore the LPA has no control over their loss. The trees have been discussed with the Council's Arboricultural Officer who has confirmed that he does not consider the trees good candidates for designation, due it their location and type.
- 8.46 There is considered to be sufficient space within the front forecourt to facilitate the increase waste storage requirements for the site.
- 8.47 The proposal was publicised in accordance with the Council's Statement of Community Involvement, with a Site Notice and Letters to those adjoining premises.
- 8.48 The Prior-Approval did include the annotation of a 'snug' within its floorplans, however this is annotation only and is a level of detail is not required within a Prior-Approval submission, which only considers the physical works. The room can be put to whatever domestic use the occupiers wish.
- 8.49 Fire safety is managed through Building Control and Private Sector Housing and is therefore not material in this determination.

## **9. CONCLUSION**

- 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 completion of a legal agreement to secure:

- (a) satisfactory completion of a Legal Agreement necessary to secure 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 a legal agreement has not been satisfactorily agreed within one month of the date of this resolution.

**Conditions**

**Time Limit:**

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

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

**Approved Plans:**

- 2) Unless otherwise agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Location and Block Plan - 24049 000; Site Plan - 24049 001; Proposed Elevations - 24049 201; Proposed Section - 24049 300 Rev. A ; and Proposed Floorplans - 24029 101 Rev A.

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

**Cycle Storage:**

- 3) Prior to first occupation of the property as a House in Multiple Occupation, secure and weatherproof bicycle storage facilities for 4 bicycles shall be provided at the site and shall thereafter be retained for the parking of bicycles at all times.

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

**Waste Storage:**

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

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

**Water Efficiency:**

- 5) 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.

**PD works:**

- 6) The extensions shown on the plans (Ref: 24029 101 Rev A, and 24049 201) shall be completed prior to the first occupation of the property as an HMO.

Reason: To ensure the layout proposed is fully implemented and the accommodation is suitable for the proposed occupation in accordance with Policies PCS20 and PCS23 of the Portsmouth Plan (2012).