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# NOTICE OF MEETING

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## PLANNING COMMITTEE

WEDNESDAY, 6 DECEMBER 2023 AT 10.30 AM

## COUNCIL CHAMBER - THE GUILDHALL

Telephone enquiries to Democratic Services 023 9268 8014

Email: [Democratic@portsmouthcc.gov.uk](mailto:Democratic@portsmouthcc.gov.uk)

If any member of the public wishing to attend the meeting has access requirements, please notify the contact named above.

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### Planning Committee Members:

Councillors Chris Attwell (Chair), Lee Hunt (Vice-Chair), Hannah Brent, Peter Candlish, Raymond Dent, Asghar Shah, John Smith, Judith Smyth, Mary Vallely and Gerald Vernon-Jackson CBE

### Standing Deputies

Councillors Dave Ashmore, Matthew Atkins, George Fielding, Lewis Gosling, Ian Holder, Mark Jeffery, Steve Pitt, Darren Sanders, Russell Simpson and Daniel Wemyss

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(NB This agenda should be retained for future reference with the minutes of this meeting.)

Please note that the agenda, minutes and non-exempt reports are available to view online on the Portsmouth City Council website: [www.portsmouth.gov.uk](http://www.portsmouth.gov.uk)

Representations by members of the public may be made on any item where a decision is going to be taken. The request needs to be made in writing to the relevant officer by 12 noon the day before the meeting and must include the purpose of the representation (e.g. for or against the recommendations). Email requests to [planning.reps@portsmouthcc.gov.uk](mailto:planning.reps@portsmouthcc.gov.uk) or telephone a member of the Technical Validation Team on 023 9283 4826.

## AGENDA

- 1 **Apologies**
- 2 **Declaration of Members' Interests**
- 3 **Minutes of previous meeting held on 15 November 2023 (Pages 5 - 10)**

- 4**      **23/00639/FUL - 35 - 37 Fratton Road, Portsmouth PO1 5AB** (Pages 11 - 28)
- Part change of use and conversion to mixed use development comprising commercial, business (Class E), storage (Class B8) and Sui Generis units at ground floor; construction of a two-storey extension with mansard roof to the front of the site and a two-storey extension to the rear of the site, in order to form 8No flats (Class C3); to include changes to the fenestration and associated works to the rear to provide refuse, cycle and storage facilities accessed from Vivash Road.
- 5**      **23/01225/CS3 - 305 - 307 Twyford Avenue, Portsmouth PO2 8PD** (Pages 29 - 46)
- Construction of 3 storey building providing 6No. flats with 2No. associated parking bays and landscaping (following demolition of existing buildings).
- 6**      **23/01073/FUL - 12 Thurbern Road, Portsmouth PO2 0PJ** (Pages 47 - 54)
- Change of use from a Class C3 dwelling house to a 7-bed/7-person house in multiple occupation (resubmission of 22/01152/FUL).
- 7**      **23/01144/FUL - 46 Shadwell Road, Portsmouth PO2 9EJ** (Pages 55 - 66)
- Change of use from a dwellinghouse (Class C3) to a 7-bed/7-person House in Multiple Occupation
- 8**      **23/00553/FUL - 58 Somers Road, Southsea PO5 4PX** (Pages 67 - 74)
- Change of use from 6-bed/6-person house in multiple occupation to 7-bed/7-person house in multiple occupation.
- 9**      **23/00657/FUL - 59 Manners Road, Portsmouth PO4 0BA** (Pages 75 - 86)
- Change of use from house in multiple occupation (Class C4) to a 8-bed/8-person house in multiple occupation.
- 10**     **23/01065/FUL - 75 Wadham Road, Portsmouth PO2 9ED** (Pages 87 - 94)
- Change of use from 5-bed/5-person House in Multiple Occupation to 8-bed/8-person House in Multiple Occupation
- 11**     **23/00667/FUL - 80 Chichester Road, Portsmouth PO2 0AH** (Pages 95 - 104)
- Change of use from dwellinghouse (Class C3) to purposes falling within Class C3 (dwellinghouse) or Class C4 (House in Multiple Occupation)

- 12**      **23/00619/FUL - 47 Oriel Road, Portsmouth PO2 9EG** (Pages 105 - 114)  
Change of use from dwellinghouse (Class C3) to purposes falling within Class C3 (dwellinghouse) or Class C4 (House in multiple occupation).
- 13**      **23/01139/FUL - 37 Henderson Road, Portsmouth PO4 9JD** (Pages 115 - 126)  
Change of use from dwellinghouse (Class C3) to purposes falling within Class C4 (house of multiple occupation) or Class C3 (dwellinghouse)

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# Agenda Item 3

## PLANNING COMMITTEE

MINUTES OF THE MEETING of the Planning Committee held on Wednesday, 15 November 2023 at 10.30 am in the Council Chamber - The Guildhall, Portsmouth

These minutes should be read in conjunction with the agenda and associated papers for the meeting.

### Present

Councillors Chris Attwell (Chair)  
Peter Candlish  
Raymond Dent  
Asghar Shah  
John Smith  
Judith Smyth  
Mary Vallely  
Gerald Vernon-Jackson CBE

### Welcome

The chair welcomed members of the public and members to the meeting.

### Guildhall, Fire Procedure

The Chair explained to all present at the meeting the fire procedures including where to assemble and how to evacuate the building in case of a fire.

### 155. Apologies (AI 1)

Apologies for absence were received from Councillor Hannah Brent and Councillor Lee Hunt.

Councillor Vernon-Jackson apologised that he would need to leave the meeting at 11:30am to attend a funeral but would come back afterwards if the meeting was still running. Councillor Shah said he would need to leave the meeting at 2pm.

### 156. Declaration of Members' Interests (AI 2)

There were no declarations of interest.

### 157. Minutes of the previous meeting held on 25 October 2023 (AI 3)

**RESOLVED that the minutes of the Planning Committee held on 25 October 2023 be agreed as a correct record.**

The Chair said that the application for 23/00905/FUL 73 Margate Road would be heard first and then the remaining applications would be considered as per the agenda.

The items will be recorded in the original order as set out on the agenda.

The supplementary matters report and deputations (which are not minuted) can be viewed on the Council's website at [Agenda for Planning Committee on Wednesday, 15th November, 2023, 10.30 am Portsmouth City Council](#)

**158. 23/01119/FUL 31 Angerstein Road, Portsmouth, PO2 8HL (AI 4)**

The Head of Development Management introduced the report and drew Members' attention to the Supplementary Matters report. The officer recommendation remained unchanged with an amended condition 2 to refer to the correct site address.

Deputations

Mr C Fielder (objector)

Ms C Wells (agent)

Members' Questions

There were no questions.

Members' Comments

Members agreed that the application fully complies with the Council's space standards and that there was no reason for refusal.

- (1) - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to:**
- (a) satisfactory completion of a Legal Agreement necessary to secure the mitigation of the impact of the proposed development on Solent Special Protection Areas (recreational disturbance and nitrates) by securing the payment of a financial contribution.**
- (2) - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary.**
- (3) 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 completed within three months of the date of this resolution.**

(Councillor Vernon-Jackson left the meeting following this item)

**159. 23/00704/FUL 53 Kensington Road, Portsmouth, PO2 0DY (AI 5)**

The Head of Development Management introduced the report.

Deputations

Ms C Wells (agent)

Members' Questions

In response to members' questions, officers clarified the following:

- It was not for officers to suggest why this application was for a six bed HMO. There is a ground floor room that could be used as a seventh bedroom however officer advice would be not reasonable to restrict the property to 6 occupants only.
- The application description is for C4 use which is up to 6 occupants. Members' must determine the application before it today.

Members' Comments

There were no comments.

-  
**RESOLVED that conditional permission be granted as set out in the officer's committee report.**

-

**160. 23/00479/FUL 29 Shadwell Road, Portsmouth, PO2 9EH (AI 6)**

The Head of Development Management introduced the report.

Deputations

Mr Simon Hill (for applicant)

Members' Questions

There were no questions.

Members' Comments

There were no comments.

-  
**RESOLVED that conditional permission be granted as set out in the officer's committee report.**

**161. 23/00686/FUL 237 Chichester Road, Portsmouth, PO2 0AN (AI 7)**

(Councillor Dent had to leave the meeting during this item so did not vote on this item)

The Head of Development Management introduced the report and drew members' attention to the supplementary matters list update.

Deputations

Ms C Wells (agent)

Members' Questions

There were no questions.

Members' Comments

There were no comments.

-  
**RESOLVED that conditional permission be granted as set out in the officer's committee report.**

**162. 23/00561/FUL 262 Chichester Road, Portsmouth, PO2 0AU (AI 8)**

The Head of Development Management introduced the report and drew Members' attention to the Supplementary Matters report and as a result the recommendation is amended from an unconditional permission to permission subject to conditions (as indicated at paragraph 6.2).

#### Deputations

Mr Simon Hill (for applicant)

#### Members' Questions

In response to questions, officers clarified that:

- There is a rear alleyway to the garden so cycles could be taken through the back of the property to the cycle storage in the rear garden.

#### Members' Comments

Members' wished to add a condition relating to bicycle storage.

**RESOLVED that conditional permission be granted as set out in the officer's committee report in paragraph 6.2, including completion of a Legal Agreement necessary to secure the mitigation of the impact of the proposed development on Solent Special Protection Areas (recreational disturbance and nitrates) by securing the payment of a financial contribution and an additional condition relating to bicycle storage to be provided and retained.**

### **163. 23/00905/FUL 73 Margate Road, Southsea, PO5 1EY (AI 9)**

The Head of Development Management introduced the report and drew Members' attention to the Supplementary Matters report. There was no change to the recommendation.

#### Deputations

Mr Jim Briscoe (applicant)

The committee felt that it was clear that this application needs planning permission as this area has a very high concentration of HMOs; 50% where the Council's limit is 10%. The additional development could cause additional pressure on parking, rubbish, noise, and anti-social behaviour in the area.

The legal officer advised members that they needed to consider the Lane appeal decisions. When considering if planning permission is required or not members need to look at the specific facts relating to this application.

Officers advised that it was their view that moving from 6 to 7 occupants in the property is not a material change of use for the reasons set out in the report. This is commensurate with previous decisions from the Planning Inspector.

**RESOLVED That the development hereby proposed is development constituting a material change of use due to the impact on parking, increase in waste, noise and antisocial behaviour.**



### Members' Questions

In response to members' questions, officers clarified that:

- The certificate of lawfulness confirmed that the property had been in use for up to 6 unrelated persons for a period of 10 years which started before the Article 4 came in. The property was never in unlawful use.
- Prior to the Article 4, planning permission was not required to change the use to up to 6 persons. The Article 4 does not mean that properties that were already in use then become unlawful.
- The fact that this was never granted planning permission for a change of use does not mean it was not on the HMO register. The HMO register will be overhauled in January.
- All of the bedrooms meet the required space standards apart from bedroom 6 which falls just below. Officers are content that this is acceptable.
- Officers advised that the difference in size of the rooms between the standard and what is proposed is considered to be so small by officers that it would not make a meaningful difference and advised this would not be a robust reason for refusal if appealed.

### Members' Comments

- It was felt that six rooms fall below the space standards; two bedrooms, three en-suites and the communal area. Officers advised that the bedrooms are all large enough. If bedrooms are large enough to allow for recreational space officers allow a reduction in the communal floor space accordingly.
- Another member commented that it was not the bedrooms that were substandard in size, but two of the bedrooms (one in size and one practically with a corridor into it) were below the size standard that would allow recreation, and that that would result in undue pressure on the communal living area, which was not of a size to allow this additional recreation displaced from the two bedrooms.
- Other members felt that although the space standards needed to be followed, the rooms were only slightly under the requirements and the space is still useable due to its shape. The committee were advised that the Council's policy is to create good living environments so it is a judgement whether this application meets this even though it falls short slightly on meeting space standards. This property has been licenced by the private sector housing team for this number of residents.
- One member felt that the application should be approved as per the conditions set out in paragraph 6.2 of the report, however this did not receive a seconder.

**RESOLVED that the application be refused for the following reasons:**

- 1. The proposed development does not provide a suitable living environment for future residents as the insufficient space/layout of two bedrooms will place undue pressure on the small size communal living area. This is contrary to policy PCS23 of The Portsmouth Plan 2012 and the Houses In Multiple Occupation Supplementary Planning Document (2019).**

2. The proposal, in combination with other housing developments in the city is considered to have a likely significant effect on the conservation objectives of relevant designated sites. This impact, caused by recreational disturbance and increase nitrate production has not been mitigated and planning permission should therefore be withheld in accordance with the Habitats Regulations in accordance with guidance within the Solent Recreation Mitigation Strategy and Updated Interim Nutrient Neutral Strategy.

**164. 23/01136/MMA 17 Military Road Portsmouth PO3 5LS (AI 10)**

The Head of Development Management introduced the report.

There were no questions. Members stated that the changes to the window resulted in an improvement on the design.

**RESOLVED that conditional permission be granted as set out in the officer's committee report.**

The meeting concluded at 12.04 pm.

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Signed by the Chair of the meeting  
Councillor Chris Attwell

# Agenda Item 4

23/00639/FUL

WARD: CHARLES DICKENS

35-37 FRATTON ROAD PORTSMOUTH PO1 5AB

**PART CHANGE OF USE AND CONVERSION TO MIXED USE DEVELOPMENT COMPRISING COMMERCIAL, BUSINESS (CLASS E), STORAGE (CLASS B8) AND SUI GENERIS UNITS AT GROUND FLOOR; CONSTRUCTION OF A TWO-STOREY EXTENSION WITH MANSARD ROOF TO THE FRONT OF THE SITE AND A TWO-STOREY EXTENSION TO THE REAR OF THE SITE, IN ORDER TO FORM 8NO FLATS (CLASS C3); TO INCLUDE CHANGES TO THE FENESTRATION AND ASSOCIATED WORKS TO THE REAR TO PROVIDE REFUSE, CYCLE AND STORAGE FACILITIES ACCESSED FROM VIVASH ROAD.**

**LINK TO ONLINE DOCUMENTS:**

[23/00639/FUL | PART CHANGE OF USE AND CONVERSION TO MIXED USE DEVELOPMENT COMPRISING COMMERCIAL, BUSINESS \(CLASS E\), STORAGE \(CLASS B8\) AND SUI GENERIS UNITS AT GROUND FLOOR; CONSTRUCTION OF A TWO-STOREY EXTENSION WITH MANSARD ROOF TO THE FRONT OF THE SITE AND A TWO-STOREY EXTENSION TO THE REAR OF THE SITE, IN ORDER TO FORM 8NO FLATS \(CLASS C3\); TO INCLUDE CHANGES TO THE FENESTRATION AND ASSOCIATED WORKS TO THE REAR TO PROVIDE REFUSE, CYCLE AND STORAGE FACILITIES ACCESSED FROM VIVASH ROAD. | 35-37 FRATTON ROAD PORTSMOUTH PO1 5AB](#)

**Application Submitted By:**

Mr M. Casey  
HRP Architects LTD

**On behalf of:**

Mr Saleem Ahmed

**RDD:** 25th May 2023

**LDD:** 29th August 2023

## **1.0 SUMMARY OF MAIN ISSUES**

1.1 This application is brought before Planning Committee at the request of Councillor Cal Corkery.

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

- The principle of the development;
- Design;
- Impact on residential amenity;
- Highway Impacts;
- Impact on nature conservation interests; and
- Other Issues

## **2.0 SITE, PROPOSAL AND RELEVANT PLANNING HISTORY**

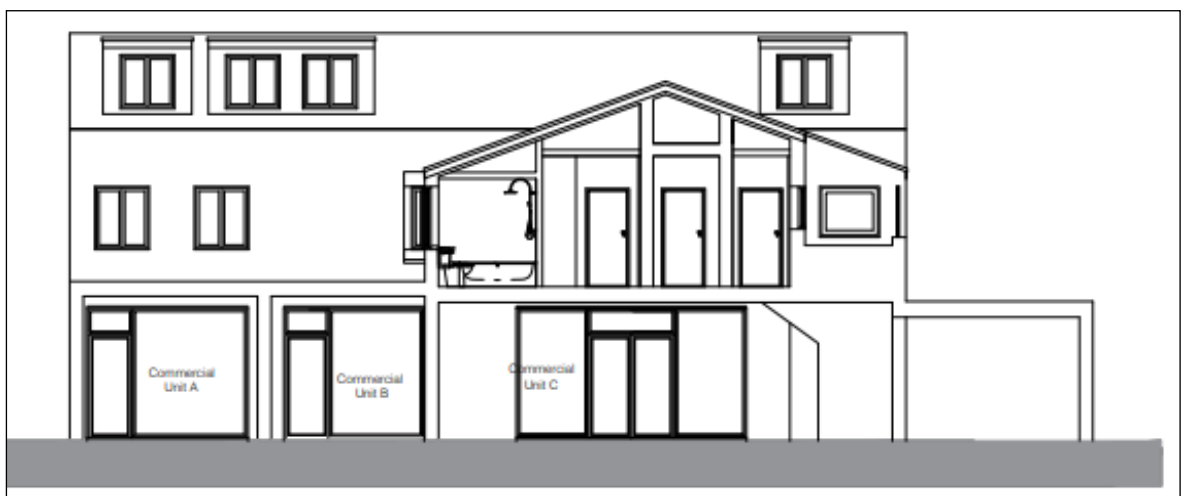
2.1 Site and Surroundings

2.2 The application site covers an area of approximately 0.12ha, located between Fratton Road and Vivash Road, south of the Victory Business Centre, and north of a row of residential properties along Lucknow Street. The site is currently occupied by a large single-storey building, which was last in use as a social club. This building has a frontage to Fratton Road and covers a large part of the site, with a courtyard area to the rear. On the far western side of the site, there is a two-storey dwelling on the Vivash Road frontage, with undercroft vehicle access into the site.

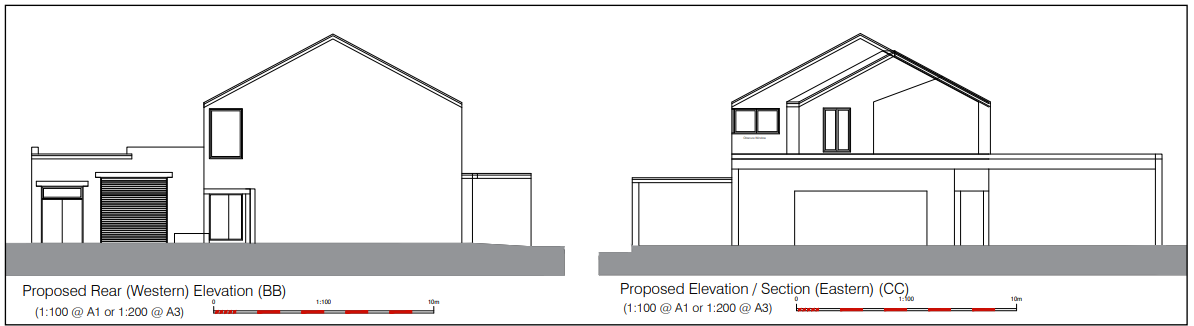
- 2.3 The site is located within the Fratton District Centre and a high-density area as defined by Policies PCS8 and PCS21 of the Portsmouth Plan respectively.
- 2.4 The area surrounding the site is characterised by a mix of residential and commercial uses. Along Fratton Road to the north and south of the site, the majority of buildings have commercial use at ground floor level, some with residential use above. To the south of the site, the buildings along Lucknow Street are residential, comprising a mix of housing and flats. It is highlighted that to the immediate south of the site is a shared garden in use by the Southsea Self Help Housing Co-operative which occupies the units along Lucknow Street. On Vivash Road to the west of the site, the adjacent properties comprise some two-storey residential dwellings and a church. To the north of the site is the Victory Business Centre, which is a five-storey commercial building and is protected for employment use under Policy PCS11 of the Portsmouth Plan.
- 2.5 Proposal
- 2.6 Planning permission is sought for the part change of use to a mixed-use development comprising commercial, business (Class E), storage (Class B8) and Sui Generis units at ground floor. As well as the construction of a two-storey extension with a mansard roof to the front of the site along Fratton Road and a two-storey extension to the of the site, to form 8 flats (Class C3). This would include changes to the fenestration and works to the rear to provide refuse, cycle and storage facilities, all accessed from Vivash Road.



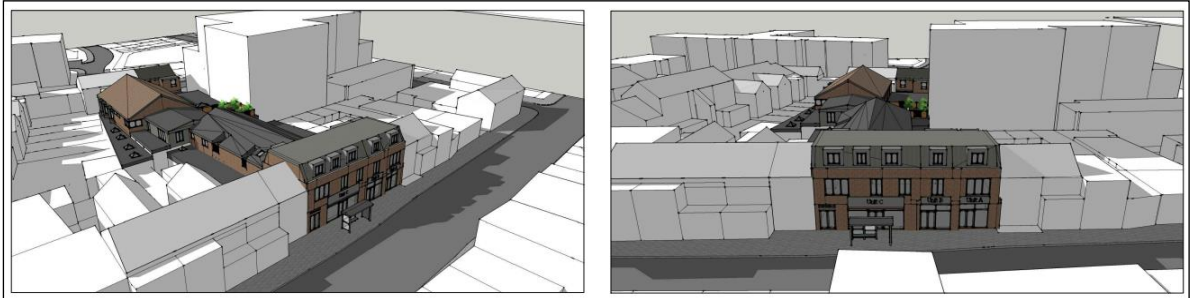
**Figure 1** Proposed front elevation (Fratton Road)



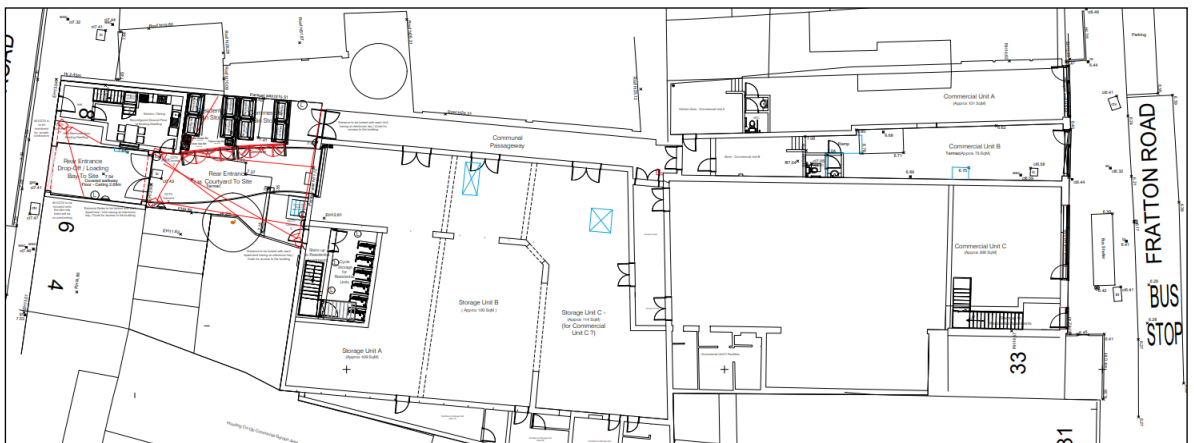
**Figure 2** Proposed rear section



**Figure 3** Proposed side elevations



**Figure 4** Proposed visual representations



**Figure 5** Proposed ground floor plan



**Figure 6** Proposed first floor plan

- 2.7 The ground floor would be sub-divided into 3 commercial units (fronting Fratton Road) and 3 commercial storage units (within the centre of the site and access via the undercroft on Vivash Road).

- Commercial Unit A - 101m<sup>2</sup> (Sui Generis Use)
- Commercial Unit B - 73m<sup>2</sup> (Class E Use)
- Commercial Unit C - 306m<sup>2</sup> (Class E Use)
  
- Storage Unit A - 109m<sup>2</sup> (Class B8 Use)
- Storage Unit B - 100m<sup>2</sup> (Class B8 Use)
- Storage Unit C - 114m<sup>2</sup> (Class B8 Use)

2.8 The units proposed would comprise the following mix of dwellings:

- 5 x 1-bedroom flats;
- 1 x 2-bedroom flat; and
- 2 x 3-bedroom flats.

2.9 The existing dwelling on Vivash Road would be retained though would have alterations to its internal and external layout.

2.10 The proposal includes the building up of the frontage along Fratton Road to two-stories in height, with a mansard roof and dormers. The primarily materials would be red/brown brick with a zinc roof. The frontage along Fratton Road would retain a commercial frontage at ground floor with the large elements of glazing within aluminium frames.

2.11 An additional storey would be constructed above the existing pitched roof building towards the east of the site. A two-storey link building with a pitched roof would be constructed linking this element with the existing pitched roof building towards the rear of the site. This roof of this building would be raised at the ridge and eaves. The development would also provide a first-floor terrace for the flats located to centrally to the north side of the site.

2.12 The main access to the flats would be from Fratton Road, they would be linked by a hallway which would run through the length of the first floor of the site. Rear access would be provided by the existing access along Vivash Road. Bin and bike storage would be located to the rear.

2.13 The undercroft along Vivash Road would be retained though only used for deliveries, with no parking on site. Lighting and CCTV cameras are proposed within the rear ground floor courtyard.

2.13 Planning History

2.14 23/00822/PLAREG - Change of use (37a) from Class E to form a restaurant and hot-food takeaway and infill the courtyard to form a retail unit (37b), with associated alterations to frontage and installation of two extract ducts to rear - Pending Decision.

2.15 22/01540/FUL - Change of use to hot food takeaway, with associated alterations to frontage and installation of extraction unit - Application Withdrawn

2.16 19/01220/OUT - Outline application for construction of mixed use development comprising 2, 3 and 5 -storey buildings to provide a social club (class D2), 4 x 3-bedroom flats (Class C3), 22 x student rooms (Class C1) with associated caretakers flat and café, cycle and refuse storage facilities and 2 x parking spaces accessed from Vivash Road (Principles of access, appearance, layout and scale to be considered) - Withdrawn 13 January 2023

2.17 18/01450/OUT - Outline application for a mixed-use development comprising Social Club and Student Halls of Residence (50 bedrooms) within a part 1/part 3-storey building fronting Fratton Road, 2-storey building fronting Vivash Road and part 4/part 5-storey building positioned centrally within the site with associated refuse/bicycle stores and parking facilities (principles of access, appearance, layout and scale) - Withdrawn 4 September 2019

### 3.0 POLICY CONTEXT

3.1 In addition to the aims and objectives of the National Planning Policy Framework (2021), the relevant policies within the relevant policies within the Portsmouth Plan (Jan 2012) would include:

- PCS8 - District Centres
- PCS10 - Housing Delivery
- PCS13 - Greener Portsmouth
- PCS15 - Sustainable Design & Construction
- PCS17 - Transport
- PCS19 - Housing Mix, Size & Affordable Housing
- PCS21 - Housing Density
- PCS23 - Design & Conservation

3.2 In addition to the above development plan policies the Solent Recreation Mitigation Strategy (2017) and Updated Nutrient Neutral Mitigation Strategy (June 2022), Housing Standards SPD (January 2013), the Parking Standards & transportation SPD (July 2014) are also material to the determination of the application.

### 4.0 CONSULTATIONS

4.1 Natural England

4.2 No objection subject to securing sufficient mitigation against SPAs.

4.3 Highways Engineer

4.4 The site is not located within that part of the city found to be sufficiently accessible in the SPD to allow the consideration of a reduction in the parking expectation for the C3 elements. However, this does not mean that each site must provide off road parking sufficient to meet the parking expectation. The SPD explains that *"the council recognises that, given the nature of available development sites in the city, it will not always be physically possible to accommodate the expected standard on site. In some cases, it may not be possible or appropriate to provide any on-site parking at all"*.

4.5 Nevertheless, that does not mean that developments without adequate parking facilities will be acceptable rather that we need to be satisfied that there is a reasonable prospect of future residents/customers to the site being able to find a parking space within a reasonable walking distance of their home.

4.6 Taking into the local and the nearby key amenities and the applicants providing a parking survey to demonstrate that there is sufficient capacity to accommodate the likely parking demand in the surrounding vicinity, it is considered that no objection would be raised in terms of parking provision.

4.7 Concerns were initially raised regarding the rear access, which the original drawings indicated as a car parking space, the revised submission has amended this to demonstrate that the area is to be reserved for deliveries. It is considered the amendment would not cause any significant impact and therefore acceptable.

4.8 No objection is therefore raised subject to two conditions around details of cycle spaces and a Parking and Service Management Plan being submitted and approved prior to occupation.

4.9 Environmental Health

- 4.10 No objection to the application subject to conditions relating to traffic noise from Fratton Road to residential properties and four conditions relating to the proposed commercial uses at ground floor level.
- 4.11 Contaminated Land Team
- 4.12 No objection subject to a pre-commencement and pre-occupation condition.
- 4.13 Ecology
- 4.14 No objection to the proposal subject to a condition requiring that the development is carried out in accordance with the recommendations from Section 4 "Ecological Constraints and Opportunities" of the submitted Bat Scoping Report (The Ecology Co-operation Ltd., May 2023).
- 4.15 Crime Prevention Design Advisor
- 4.16 No objection has been received, detailed comments discussing matters of access and recommendation for lighting and CCTV installation. These comments were provided prior to the revised plans which show lighting and CCTV cameras within the rear courtyard as suggested. Noted that they recommend each unit has a car parking space, though unclear how this matter relates to Crime Prevention.

## 5.0 REPRESENTATIONS

- 5.1 3 letters have been received objecting to the development. This includes a letter from Southsea Self Help Housing, who represent 18 members who live to the south of the site. As well as Councillor Cal Corkery who has requested the application be determined at Planning Committee. The issues raised can be summarised as follows:
- a) Parking surveys completed at night and do not reflect the parking pressure of the area;
  - b) Impact of the greenspace to the south of the site;
  - c) Impact on nature and wildlife;
  - d) Impact on trees near the site;
  - e) Loss of privacy and overlooking upon the southerly neighbours;
  - f) Increase in traffic and parking demand;
  - g) Increase in light levels;
  - h) Increase noise;
  - i) Impact of dust and air quality;
  - j) Lack of certainty about which part of the building are to be retained; and
  - k) Impact on drainage.

## 6.0 COMMENT

- 6.1 The main issues for consideration are:
- The principle of the development;
  - Design;
  - Impact on residential amenity;
  - Highway Impacts;
  - Impact on nature conservation interests; and
  - Other Issues
- 6.2 The principle of the development
- 6.3 The site comprises brownfield land that has been vacant since the use as a social club ceased. The site is located within the primary section of the Fratton Road District Centre as designated under Policy PCS8 of the Portsmouth Plan (2012). PCS8 sets out that "*proposals for residential (C3) or offices (B1a) will be encouraged on upper floors, but not*



*at ground floor level along the primary frontage*". The proposal would retain a commercial use at ground floor level. The development introduces three new commercial shop fronts to Fratton Road at ground floor level, two of which would fall within Class E, the other as a Sui Generis take-away. Policy PCS8 of the Portsmouth Plan does not restrict the number of take aways within the Centre, it simply supports A1 Uses (now Class E). The rear of the site is identified as storage (Use Class B8), Policy PCS8 is silent of storage uses within the centre, it is considered that this use would be broadly acceptable given the nature of the area and newly provided commercial frontage. Given that the proposal results in three additional shopfronts, two within Class E, the commercial element of the scheme is supportable in principle. The overall proposal is therefore considered to accord with Policy PCS8. It is noted that the scheme increases the housing density within a District Centre and makes good use of brownfield land, in accordance with Policy PCS21.

- 6.4 Policy PCS10 of the Local Plan states that the City Council will plan for an additional 7,117 - 8,387 homes between 2010 - 2027 that will be provided in designated areas and through conversions and redevelopment of previously developed land. Furthermore, paragraphs 5.31 and 5.34 of the Local Plan highlight the need to make the most effective use of land which is consistent with the objectives of Section 11 of the NPPF that highlights the importance of using land effectively to provide the homes and other identified needs that communities need. On this basis the proposal is acceptable, in principle
- 6.5 Another aspect for the determination of this application is the fact that Authority does not have a 5-year housing land supply, and the proposed development would contribute towards meeting market and affordable housing needs. The proposed development has been assessed on this basis and is deemed to be acceptable in principle given the policy objectives of PCS8 as well the very good access to jobs, shops, services, and public transport. However, the specific impacts of the proposal must be considered as to whether the development is appropriate in detail and whether visual harm and/or harm to neighbouring amenity would occur. The detailed assessment is set out below.
- 6.6 Design
- 6.7 Section 12 of the National Planning Policy Framework (NPPF) places an emphasis on achieving high quality sustainable development. Paragraph 126 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places are fundamental to what the planning and development process should achieve. Paragraph 130 sets out that developments should ensure that they function well and add to the overall quality of an area; be visually attractive; be sympathetic to local character and history; establish or maintain a strong sense of place and should optimise the potential of a site to accommodate and sustain an appropriate mix of development.
- 6.8 In addition, Policy PCS23 of the Portsmouth Core Strategy (2012) states, inter alia, that new development must be well designed and, in particular, respect the character of the city. A range of guiding principles include the need for excellent architecture, public and private spaces, the need to relate well to the city's heritage and to be of an appropriate scale, density, layout, appearance and materials in relation to the particular context.
- 6.9 The existing building has mostly maxed out the available space on site. The previous frontage had some architectural quality with the larger curved windows and arched vehicular entrance. It was noted at the time of the officer site visit the archway on the Fratton Road frontage has been removed and replaced with a standard shopfront as shown on the exiting plans. While the larger hall within the site has some quality with its vaulted ceiling it is very much screened by the flat roofed elements on the site.
- 6.10 The building up along Fratton Road is acceptable in scale and form. While the frontage would be slightly taller than the adjacent properties, Fratton Road has a range of heights along its frontage and the subtle change in eaves and ridge height is not considered to raise any concerns. The building would primarily be completed in red/brown brick, with

traditional shopfront glazing at ground floor level. The zinc roof, while not typical for the area, would be acceptable given the commercial setting of the frontage.

- 6.11 The rest of the building would be screened by the surrounding properties. While it would appear as somewhat of a monolith, it is acknowledged that this is broadly similar to the existing built form on site. The actual additions with the main body of the site are relatively modest and while not of any great architectural quality, are on-balance considered to be acceptable. As part of the permission window and door details will be required prior to commencement as well as material samples of the frontage and roof terrace.
- 6.12 Policy PCS23 ensures new developments take account of their context and, and with the variety in the scale and architectural design of the in the surrounding area, it is considered that the proposed layout, design and quantum of development would ensure the scheme respects the scale, materials, design and overall character and appearance of the surrounding area.
- 6.13 Subject to the conditions set out below it is considered that the scheme represents a sustainable form of development that accords with the objectives of Policy PCS23 of the 2012 Local Plan and the NPPF.
- 6.14 Impact on residential amenity
- 6.15 Policy PCS23 also requires, inter alia, that new development protects the amenities of existing residents while requiring a good standard of amenity for future occupants.
- 6.16 Existing Residents
- 6.17 As part of the application the Council's Environmental Health team have been consulted and no objections have been received regarding the commercial uses on the adjoining or proposed residents. A number of conditions have been proposed in order to control noise from the commercial uses to the residential uses. The proposed ground floor units would be in variable use in Class E, Class B8 and Sui Generis Use. Operating hours conditions will be attached to the commercial uses to ensure they do not interfere with the above and nearby residential uses.
- 6.18 39-43 Fratton Road
- 6.19 The additional mass along the frontage of Fratton would not be considered result in any overshadowing or dominance along the neighbours to the north of the site. Reviewing the proposed window locations for the north side facing flats against those units to the north there would be a separation of 11m. The bedroom and living rooms window for Apartment 3 would be angled away from the side facing windows of No. 39-41 Fratton Road. The windows for Apartment 4 would face directly north, however given the window arrangement from the northern neighbour, views would be angled and discreet. While it is accepted that there may be a level of mutual overlooking, given the close-nit nature of the area, this is acceptable on balance.
- 6.20 44-48 Fratton Road
- 6.21 The increase in height and additionally windows along the Fratton Road frontage would face onto these neighbours to the east, given the separation of the road there is no concerns around residential amenity on these neighbours.
- 6.22 33-29 Fratton Road
- 6.23 No.33-29 Fratton Road feature 6 total upper floor rear facing windows which would look on to the site. The minor increase in height of the additionally storey above the eastern side of the site, would not result in any harm through overshadowing or enclosure. Apartments 6 and 8 would feature east facing windows, both secondary windows. While

they are at set a minimum of 16m away from the rear windows of the southern terrace, it is considered appropriate to attach a condition requiring them to be obscure glazed and non-opening. Apartment 5 also features a small roof terrace, which would be conditioned to include glazing to restrict overlooking.

6.24 57-79 Lucknow Street

6.25 The additional height of the westerly section of the building would follow the existing line of the pitched roof building within the site, with the majority being retained where possible. This would therefore be angled slightly away from the boundary. At its closest point it would be 13.8m away from the rear of the properties along Lucknow Street. The built form next to the boundary with the Lucknow Street communal garden would only increase by approximately 0.35m at eaves and max height. Given this minor change in massing it is not considered that the proposal would result in a harm level of overshadowing towards these neighbours.

6.26 Seven first floor windows are proposed along the southern boundary. These includes three windows serving the two bedrooms of Apartment 8, all of which would be angled away from the Lucknow Street and face towards the rear car park/undercroft. There would also be two windows serving the living room for this unit, one of which would be high level and provide limited opportunities for overlooking. The other would be a corner window and face on to the rear car parking area. The remaining two windows would serve a bedroom and living room for Apartment 6, both windows would be approximately 17.8m away from the properties to the south. On balance and subject to the conditions outlined above the proposal would be considered to have an acceptable impact on the neighbours along Lucknow Street.

6.27 4-6 Vivash Road and 7-9 Vivash road

6.28 Given the minor changes to the western edge of the site, it is not considered that there would be any impact on the amenity of these neighbours.

6.29 Roof terrace

6.30 Detailed plans have been shown of the proposed roof terrace, which would feature acoustic screening fence panels and be located away from the existing residential occupiers. While access is shown onto the adjoining flat roofs, this is solely for maintenance and a conditioned would be imposed to ensure the further roofs are not used for recreation.

6.31 On the basis of the foregoing, the proposed development would, by virtue of the layout, separation distances and window treatments, be unlikely to materially impact upon the occupants of existing residents that are adjacent to the application site, or to impact upon them in an acceptable manner given the site's context, and therefore the scheme is compliant with Policy PCS23 of the Local Plan in this regard.

6.32 Future Occupants

6.33 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, and whether the proposed layout would give rise to any materially harmful impacts such as overlooking within the development itself.

6.34 The Government's Nationally Described Space Standards were published in 2015 and the applicant has detailed on the submitted plans the size proposed for each of the 1-bedroom, 2-bedroom and 3-bedroom apartments proposed. Each of the apartments would exceed the Space Standards. In terms of the internal space provided each of the occupants would have a good standard of amenity that either meets or exceeds the minimum space standards. All the units also enjoy a suitable degree of light and outlook.

- 6.35 Regarding outdoor space, the scheme proposes a communal terrace that could be accessed by each of the Apartments. Details have been sought over the design and finish of the terrace to ensure its quality. Screening is proposed to prevent conflict with any adjoining apartments. Given the location of the site, as the rear of a commercial area, it is considered that any external amenity space is a positive. The scheme therefore provides for good levels of outdoor amenity thereby adhering to the objectives of Policy PCS23 of the Local Plan and paragraph 130(f) of the NPPF. Furthermore, the site is only 200m away from Landport Park.
- 6.36 Impact of the ground floor use(s)
- 6.37 The proposal has been reviewed by the Council's Environmental Health team who have reviewed the noise impacts of the proposed ground floor use, and a number of conditions are proposed around noise insulation and any required extract equipment. It is considered suitable to restrict the hours and days of operation of the ground floor elements to protect the amenity of the proposed and surrounding occupants. Considerations has been given to restricting the Class E units to only specific uses within the order, it is not considered that this would be justifiable. It is however considered that given the possible change of use of the ground floor storage units it is suitable to secure those larger units as B8 use, in order to ensure the careful consideration of any subsequent light industrial use. It is noted that extraction equipment for the Sui-Generis takeaway use has not been shown within the application, this element would require a separate future application. Reviewing the plans, it is considered that there is scope to site the equipment within the building, without impacting upon the amenity of the proposed or adjoining residents.
- 6.38 Highway Impacts
- 6.39 Policy PCS17 ensures, inter alia, that the City Council and partners will reduce the need to travel and provide sustainable modes and promote walking and cycling.
- 6.40 The Highways Authority reviewed the submission including the Applicants Transport Statement and have confirmed that while the proposed ground floor uses would result in an increase in traffic generation it is not considered that it would have a material impact on the operation of the broader highway network. In addition, no objection is raised to the proposed accesses.
- 6.41 As stated the application does not provide any on-site parking for the residential flats. The site is located within a District Centre and nearby to a range of sustainable transport options including a bus stop at the front of the site on Fratton Road (Bus Routes 13 and 18) and is within 300 metres of Fratton Train Station. Taking into the local and the nearby key amenities and the applicants having provided a parking survey to demonstrate that there is sufficient capacity to accommodate the likely parking demand in the surrounding vicinity, it is considered that no objection would be raised in terms of parking provision.
- 6.42 Cycle parking has been identified within the plans and this has been reviewed by the Council's Highways Authority who are satisfied with its overall provision. Final details of the cycle storage will be secured via condition as will a Parking and Service Management Plan to set out how the coming and goings will function for the site. The scheme is considered to be compliant with the objectives of Policy PCS17. Furthermore, when the scheme is considered against paragraph 111 of the NPPF there are no highway related reasons to withhold planning permission.
- 6.43 Impact on nature conservation interests
- 6.44 The Conservation of Habitats and Species Regulations 2017 [as amended] and the Wildlife and Countryside Act 1981 place duties on the Council to ensure that the proposed development would not have a significant effect on the interest features for which Portsmouth Harbour is designated as a Special Protection Area, or otherwise affect

protected habitats or species. The Portsmouth Plan's Greener Portsmouth Policy (PCS13) sets out how the Council will ensure that the European designated nature conservation sites along the Solent coast will continue to be protected.

- 6.45 There are two potential impacts resulting from the accommodation proposed as part of this development. The first being potential recreational disturbance around the shorelines of the harbours, and the second being from increased levels of nitrogen and phosphorus entering the Solent water environment.
- 6.46 Officers have submitted an Appropriate Assessment, dated 7th August 2023, to Natural England who have subsequently confirmed that they raise no objection to the proposal subject to the necessary mitigation being secured. The mitigation contribution for the recreation disturbance is £4,522.00, whilst mitigation would be needed to make the scheme nitrate neutral to the amount of 6.16kg TN/yr.
- 6.47 The recommendation is for the Committee to recommend the granting of permission subject to the completion of a legal Agreement to secure the mitigation payment for both the recreational bird disturbance and nitrate neutrality.
- 6.48 In terms of the biodiversity value of the site itself, the City Council's Ecology Officer has reviewed the Bat Scoping Report and has confirmed they raise no objection subject to a condition ensuring the mitigation measures set out in the report are implemented as set out in the report. They have also reviewed the revised lighting scheme and have raised no objections to the proposal.
- 6.49 In addition, and pursuant to Policy PCS13 it is considered appropriate to impose a further condition to ensure biodiversity enhancement measures and a detailed management plan are Provided.
- 6.50 Community Infrastructure Levy
- 6.51 The proposal would result in the creation of 8 new dwellings totalling 709 sq.m of GIA floorspace, 3 commercial Class E/sui generis units totalling 554sqm of GIA floorspace and 3 storage Class B8 units totalling 454 sq.m of GIA floorspace all within one building (1717 sq.m GIA total). Existing building discount is unlikely to be applied as the existing building is unlikely to have been in continuous lawful use for 6 months in the 36 months prior to planning permission first permitting development. The submitted CIL Form 1 confirms that this is the case. The likely CIL chargeable amount will be £211,113.57 based on 1263 sq.m at full rate and 454 sq.m at a £0 (zero) rate.
- 6.52 Human Rights and the Public Sector Equality Duty ("PSED")
- 6.53 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.
- 6.54 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.

6.55 Other Issues

6.56 In regard to the impact of the development on trees. There are no trees located within the curtilage of the site, it is noted that there are trees within the adjoining sites. The scheme has been discussed with the Council's Arboricultural Officer, given the location of the nearby trees to the south-east of the boundary of the site, which is currently and proposed to be used as a paved courtyard it is not considered that it would result in any harm towards the adjacent trees.

6.57 The proposal would result in an increase in light at night given the increased intensity of the use and number of additional windows, it is not however considered that this would result in any concern towards the surrounding neighbour's amenity.

6.56 The majority of the ground floor area would be used for storage which is not considered to pose any significant noise concerns, the other uses and residential elements have been considered by the Environmental Health team who besides some conditions around insulation between floors have not raised any concerns.

6.57 The impacts of dust and air pollution through the construction would be managed via the public protection regime and the actual external works in this case are rather limited. A Construction Environment Management Plan (CEMP) condition has been included to ensure the proper management of the construction phases of the development.

6.58 The Council's Drainage Engineer was consulted in response to a neighbour representation, in their view, given that the existing buildings footprint is 100% impermeable there will be no increase in run-off from the site. All foul water and roof water connections are subject to S106 Southern Water Agreement, which is not part of our planning process. Additionally, a Flood Risk Assessment is not required for the development due to its location. As such it is not considered suitable to request a Drainage Strategy and no objection is raised.

6.59 Conclusion

6.60 Having regard to all of the material planning matters which have been covered above, it is considered that the proposal would represent a positive addition to the area, would not unduly impact upon the amenities of neighbouring properties, would afford future occupants with a good standard of living, and would represent an efficient use of a brownfield site. Subject to the conditions set out below the development would secure the necessary ecological benefits. Furthermore, the development would yield new housing for the city, and it is located at a very sustainable location. Having considered that there would be no significant/unacceptable adverse impacts on residential amenity, character and design, the surrounding highway network and nature conservation interests, the development would contribute to the achievement of sustainable development as required by the NPPF. Consequently it is recommended that planning permission be granted.

**RECOMMENDATION I** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to grant Conditional Permission subject to completion of a Legal Agreement to secure the following:

- i. To mitigation of the development with respect to the recreational disturbance to the Special Protection Areas.
- ii. Nitrate neutrality mitigation for the Special protection Areas

**RECOMMENDATION II** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary, and

**RECOMMENDATION III** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to refuse planning permission if a Legal Agreement to secure the affordable housing, and the mitigation of the development with respect to the Special Protection Areas pursuant to Recommendation I has not been completed within three months of the date of

### **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.

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 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:

Existing Block Plan - 9033 - 00- A;

Proposed Ground Floor Plans - 9033 - 04- Rev B;

Proposed First & Second Floor Plans - 9033 - 05- Rev C;

Proposed Elevations and Perspectives - 9033 - 06- Rev C;

Proposed Elevations - 9033 - 07- Rev B;

Existing & Proposed Revisions to Plans and Elevations at the Property - 9033 - 08- Rev B;

Proposed Block Plan - 9033 - 10- Rev B;

Proposed Materials/Front Elevation - 9033 - 12;

Proposed Roof Terrace - 9033 - 13;

Proposed Rear Access Plan - 9033 - 14 - Rev A; and

Proposed Window Location First Floor Plan - 9033 - 15 - Rev B.

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

#### Land Contamination

3) No works pursuant to the development hereby approved shall commence until there has been submitted to and approved in writing by the Local Planning Authority (or within such extended period as may be agreed with the Local Planning Authority) the following in sequential order:

a) A desk study (undertaken following best practice including BS10175:2011+A2:2017 'Investigation of Potentially Contaminated Sites Code of Practice) documenting all the previous and current land uses of the site and potential contaminants associated with those uses. The report shall contain a conceptual model (diagram, plan, and network diagram) showing the potential contaminant linkages (including consideration of asbestos), including sampling rationale for a site investigation scheme based on the conceptual model, explaining all proposed sample locations and depths (Phase 1 report).

*Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with saved Policy DC21*

of the Portsmouth City Local Plan (2006), and paragraph 183 of the National Planning Policy Framework (2021). The responsibility for safe development rests with landowner / developer.

b) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the conceptual model in the desk study (to be undertaken in accordance with BS10175:2011+A2:2017 and BS8576:2013 'Guidance on investigations for ground gas – Permanent gases and volatile organic compounds (VOCs)'). The report shall refine the conceptual model of the site and confirm either that the site is currently suitable for the proposed end use or can be made so by remediation. Remedial options shall be detailed with a remedial options appraisal. The report shall include a detailed assessment of the risk to all receptors that may be affected, including those off-site (Phase 2 report).

*Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with saved Policy DC21 of the Portsmouth City Local Plan (2006), and paragraph 183 of the National Planning Policy Framework (2021). The responsibility for safe development rests with landowner / developer.*

c) A remediation method statement report detailing the remedial scheme and measures to be undertaken to avoid risk from contaminants and/or gases when the development hereby authorised is completed, detailing proposals for future maintenance, monitoring and arrangements for contingency action as necessary. If identified risks relate to bulk gases, this will require the submission of the design report, installation brief, and validation plan as detailed in BS8485:2015+A1:2019 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings and have consideration of CIRIA 735 Good practice on the testing and verification of protection systems for buildings against hazardous ground gases. The remedial options appraisal shall have due consideration of sustainability as detailed in ISO 18504:2017 Soil quality – Sustainable remediation. It shall include the nomination of a competent person to oversee the implementation of the remedial scheme and detail how the remedial measures will be verified on completion (Phase 3 report).

*Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with saved Policy DC21 of the Portsmouth City Local Plan (2006), and paragraph 183 of the National Planning Policy Framework (2021). The responsibility for safe development rests with landowner / developer.*

4) The development shall not be occupied until a stand-alone verification report has been submitted by the competent person approved pursuant to condition (3) c) above. The report shall demonstrate that the remedial scheme has been implemented fully in accordance with the remediation method statement and demonstrate that site remediation criteria have been met. For the verification of gas protection schemes the applicant should follow the agreed validation plan. Thereafter the remedial scheme shall be maintained in accordance with the details approved under conditions (3) c).

*Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with saved Policy DC21 of the Portsmouth City Local Plan (2006), and paragraph 183 of the National Planning Policy Framework (2021). The responsibility for safe development rests with landowner / developer.*

#### Road Noise

5) Prior to the commencement of construction works a scheme for insulating habitable rooms against road traffic noise shall be submitted to the local planning authority. The approved scheme shall then be implemented before the first occupation of the building and thereafter retained. The scheme shall be designed to ensure that the following acoustic criteria will be achieved in all habitable rooms:



Daytime: LAeq(16hr) (7:00 to 23:00) 35 dB, Night-time: LAeq(8hr) (23:00 to 07:00) 30 dB and LAmax 45dB.

#### Commercial use

6) Prior to the installation of any fixed plant or equipment an assessment of noise from the operation of the plant shall be undertaken using the procedures within British Standard BS4142:2014 and a report submitted to the local authority for approval. Upon approval all specified measures to mitigate any identified observed adverse effect levels due to the operation of the plant shall be implemented, retained and maintained thereafter.

*Reason: In order to protect the amenity of the above and adjoining residential uses in accordance with Policy PCS23 of the Portsmouth Plan (2012).*

7) A scheme of sound insulation measures designed to reduce the transmission of airborne sound across the separating floor between the ground floor commercial use and the first floor proposed residential dwellings shall be submitted to the planning authority. These measures shall ensure that the separating floor can achieve a minimum standard of Dntw+Ctr 55dB. Upon approval these measures shall be implemented and thereafter maintained.

Upon approval these measures shall be implemented in full prior to the first occupation of any residential unit and thereafter maintained.

*Reason: In order to protect the amenity of the above residential uses in accordance with Policy PCS23 of the Portsmouth Plan (2012).*

8) A noise assessment shall be carried out to ensure that any equipment will not cause a loss of amenity and that the following acoustic criteria will be achieved in all habitable rooms:

Daytime: LAeq(16hr) (7:00 to 23:00) 35 dB, Night-time: LAeq(8hr) (23:00 to 07:00) 30 dB and LAmax 45dB.

*Reason: In order to protect the amenity of the above and adjoining residential uses in accordance with Policy PCS23 of the Portsmouth Plan (2012).*

#### Bike Storage

9) Prior to the occupation of the site details of cycle storage for the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority and thereafter retained as approved.

*Reason: In order to provide sufficient cycle storage in accordance with Policy PCS17 of the Portsmouth Plan.*

#### Service Management Plan

10) Prior to the occupation of the site a Parking and Service Management Plan shall be submitted to and approved in writing by the Local Planning Authority and thereafter the development shall operate in accordance with the approved details.

*Reason: In order to manage the operations of the site and avoid highway safety conflicts in accordance with Policy PCS17 of the Portsmouth Plan.*

#### Ecological condition

11) The development hereby approved shall proceed in accordance with the measures details in Section 4 "Ecological Constraints and Opportunities" of the submitted Bat Scoping Report (The Ecology Co-operation Ltd., May 2023).

*Reason: To ensure that the scheme complies with Policy PCS13 of the Portsmouth Plan and the NPPF*

#### Air Quality condition

12) The first and second floor residential windows fronting Fratton Road shall be sealed, and details of a mechanical ventilation system shall be submitted to and approved prior to the occupation of the residential units and thereafter retained.

*Reason: To ensure that the proposed units are not impacted negatively by air quality concerns in accordance with Policy PCS23 of the Portsmouth Plan and the NPPF*

#### Materials

13) (a) Notwithstanding the submitted details, no development works other than those of ground works, and construction of the building's foundations shall take place until:

i) a full and detailed schedule of all materials and finishes (including a samples board) to be used in the construction of the external surfaces of the development hereby permitted has been submitted to and approved in writing by the Local Planning Authority; and

ii) a sample panel for each of the proposed masonry types to demonstrate: colour; texture; bedding and bonding pattern; mortar colour and finish has been installed at the application site and approved in writing by the Local Planning Authority; and

(b) The development shall be carried out in full accordance with the schedule of materials and finishes agreed pursuant to part (a)i) of this Condition; and the sample panels approved pursuant to part (a)ii) of this Condition retained on site for verification purposes until completion of the construction works.

*Reason: To secure a high quality finish to the development in the interests of visual amenity in accordance with Policy PCS23 of the Portsmouth Plan (2012), and the aims and objectives of the National Planning Policy Framework (2021).*

#### Landscaping

14) (a) Notwithstanding the submitted details, the development hereby permitted shall not be occupied/brought into use until detailed hard and soft landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; and

(b) Unless otherwise agreed in writing with the Local Planning Authority, the hard landscaping schemes approved pursuant to part (a) of this Condition shall be completed prior to first occupation of the building hereby permitted; and

(c) The soft landscaping schemes approved pursuant to part (a) of this Condition shall be carried out within the first planting/seeding season following the first occupation of the building. Any trees/shrubs which, are removed or become damaged or diseased within 5 years of the date of this permission shall be replaced in the next planting season with others of the same species, size and number as originally approved.

*Reason: To secure a high-quality setting to the development and ensure adequate external amenity space for future users of the building in the interest of visual and resident amenity in accordance with Policy PCS23 of the Portsmouth Plan (2012) and the Tall Buildings SPD (2012).*

#### Water use

15) Unless otherwise agreed in writing by the Local Planning Authority, the development hereby permitted shall not be occupied until written documentary evidence has been submitted

to, and approved by, the local planning authority, demonstrating that the development has achieved:

- a maximum water use of 110 litres per person per day as defined in paragraph 36(2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a post-construction stage water efficiency calculator.

*Reason: To ensure that the development as built will minimise its need for resources and be able to fully comply with the conclusions of the Appropriate Assessment in accordance with policy PCS13 and PCS15 of the Portsmouth Plan.*

#### Refuse Storage

16) (a) Notwithstanding the submitted details, no part of the development hereby permitted shall be occupied/brought into use until facilities for the storage of refuse, recyclable materials and food waste have been provided in accordance with a detailed scheme first submitted to and approved in writing by the Local Planning Authority; and

(b) The facilities approved pursuant to parts (a) of this Condition shall thereafter be permanently retained for the storage of refuse and recyclable materials at all times.

*Reason: To ensure that adequate provision is made for the storage of refuse and recyclable materials in accordance with policy PCS23 of the Portsmouth Plan (2021).*

#### CEMP

17) Prior to the commencement of any building operation associated with the building's conversion or enlargement, a Construction Environmental Management Plan (CEMP) shall be submitted be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include, but not limited to details of: Construction vehicle routing; Site access management; Times of deliveries; Loading/offloading areas; Crane siting; Site office facilities; Contractor parking areas; Method Statement for control of noise, dust and emissions from construction work. The development shall be carried out in accordance with the CEMP approved pursuant to this condition and shall continue for as long as building operations are taking place at the site, unless otherwise agreed in writing with the Local Planning Authority.

*Reason: To minimise the potential for conflict with users of the surrounding highway network and to protect the amenity of neighbouring occupiers having regard to the close proximity of the site in accordance with Policies PCS17 and PCS23 of the Portsmouth Plan.*

#### Hours of operations Commercial Unit A

18) Commercial Unit A shall not open before 1100 hours or remain open after 2300; hours on Mondays to Saturday, and 1200 hours to 2200 hours Sunday or any recognised public holiday.

*Reason: In order to protect the amenity of the neighbouring occupiers in accordance with Policy PCS23 of the Portsmouth Plan (2012).*

#### Hours of operations Commercial Unit B

19) Commercial Unit B shall not open before 0830 hours or remain open after 1800 hours on Mondays to Saturday, and 1000 hours to 1300 hours Sunday or any recognised public holiday.

*Reason: In order to protect the amenity of the neighbouring occupiers in accordance with Policy PCS23 of the Portsmouth Plan (2012).*

#### Hours of operations Commercial Unit C and Storage Units A, B and C

20) Commercial Unit C and Storage Units A, B and C shall not open before 0900 hours or remain open after 1900 hours on Mondays to Thursday, 0900 hours to 2000 hours on Fridays and Saturdays, and 1000 hours to 1700 hours Sunday or any recognised public holiday.

*Reason: In order to protect the amenity of the neighbouring occupiers in accordance with Policy PCS23 of the Portsmouth Plan (2012).*

Remove permitted Development rights for storage units

21) Notwithstanding the tolerances of the General Permitted Development Order or any such subsequent orders, Storage Units A, B and C hereby permitted shall remain in B8 Use.

*Reason: In the interests of the surrounding resident's amenity and to manage the comings and goings to the rear access along Vivash Road pursuant to Policy PCS23 of the Portsmouth Plan.*

Windows obscure glazed

22) Prior to first occupation of the flats hereby approved, details of obscure glazing (to at least Pinkerton level 4) for the relevant windows as shown on Ref: 9033 - 05- Rev C shall be submitted for the written approval of the Local Planning Authority. The screens shall be installed prior to the first occupation and retained as such unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity in accordance with Policy PCS23 of the Portsmouth Plan (2012).

Balcony screening

23) Prior to first occupation of Apartment 5, details of privacy screens for the southern elevation of the balconies shall be submitted for the written approval of the Local Planning Authority. The screens shall be installed prior to the first occupation and retained as such unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity in accordance with Policy PCS23 of the Portsmouth Plan (2012).

# Agenda Item 5

23/01225/CS3

WARD: NELSON

305-307 TWYFORD AVENUE PORTSMOUTH PO2 8PD

**CONSTRUCTION OF 3 STOREY BUILDING PROVIDING 6NO. FLATS WITH 2NO. ASSOCIATED PARKING BAYS AND LANDSCAPING (FOLLOWING DEMOLITION OF EXISTING BUILDINGS)**

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=S1R66XMOLEL00](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=s1r66xmo1el00)

**Application Submitted By:**

Ms Alice Hiley  
Energy Conscious Design Architects

**On behalf of:**

Mr Michael Wood  
Portsmouth City Council

**RDD:** 2nd October 2023

**LDD:** 27th November 2023

## 1. SUMMARY OF MAIN ISSUES

1.1 This application has been brought to the Planning Committee for determination as it is an application by the Council.

1.2 The main issues for consideration are:

- The principle of the development;
- Design;
- Impact on residential amenity;
- Highway Impacts;
- Impact on nature conservation interests;
- Arboriculture impacts, and
- Other Issues

## 2. SITE, PROPOSAL AND RELEVANT PLANNING HISTORY

### 2.1 Site and Surroundings

2.2 The application relates to a large corner property adjacent located on the junction of Twyford Avenue and Walker Road. The site is roughly rectangular with a rounded north-western corner. The two-storey building is owned by the Portsmouth City Council (PCC) and has been last in use as four flats. Two 1-bedroom and two 2-bedroom units. The site features a sub-divided rear garden along its eastern side and features a dropped kerb. Reviewing the historical images of the site it is apparent that the rear of the site previously included off-street two car parking spaces, though this stopped around 2020. The north elevation is made by a timber fence. The existing building is suffering from subsidence, due to the roots of an adjacent street tree.

2.3 To the north of the site is an area of widened pavement, which features two street trees, the more eastern of the two is proposed to be removed and replaced. Past this is the junction of Walden and Walker Road. Walden Road runs east-west to the north of the site, with Walker Road running diagonally north-west. To the east of the site is Twyford Avenue, which runs south-north. To the south of the site is a row of two-storey terrace dwellings with a consistent architectural style and form. The adjacent property (No.303 Twyford Avenue) is also within PCC ownership. The immediate west of the site is a side access for No.1 Walden Road. Beyond this is a run of two-storey terrace properties.

- 2.4 The surrounding area is predominantly residential and characterised by two and three storey properties. It is noted that to further north of the site is Alexandra Park and there are bus services along Walker Road and Twyford Avenue.
- 2.5 The application site is not subject to any specific Local Plan Designations.
- 2.6 Proposal
- 2.7 Planning permission is sought for the construction of a 3-storey building providing 6 flats with 2 associated parking bays and landscaping (following the demolition of the existing buildings). The six flats would all be 1-bedroom. The site has an area of 310 square meters.
- 2.8 The proposed building would be three storeys with a flat parapet roof and a curved frontage to follow the corner junction. The building would be primarily finished in face red brickwork and feature a first and second floor balconies along its eastern elevation fronting Twyford Avenue. There would also be direct access for one of the ground floor flats from this elevation. The primary access for the other flats would be from Walden Road and it slightly recessed and finished in a plain red render. The building would be set back from the road slightly and include low level planting at the front. Two off-street car parking spaces would be provided at the rear (west) of the site. The rear of the site would provide bin, bike and additional external storage for all flats, with the northern boundary of the site being made of a low brick boundary wall. An additional tree is proposed within the rear garden along with the replacement street tree. Solar panels are shown on the roof of the property behind the parapet.
- 2.9 The images below show the Proposed Site Plan, Ground Floor Plan, and the north, east, south and west elevations:



Figure 1 Proposed Site Plan



Figure 2 Ground Floor Plan



Figure 3 Proposed North Elevation



Figure 4 East Elevation

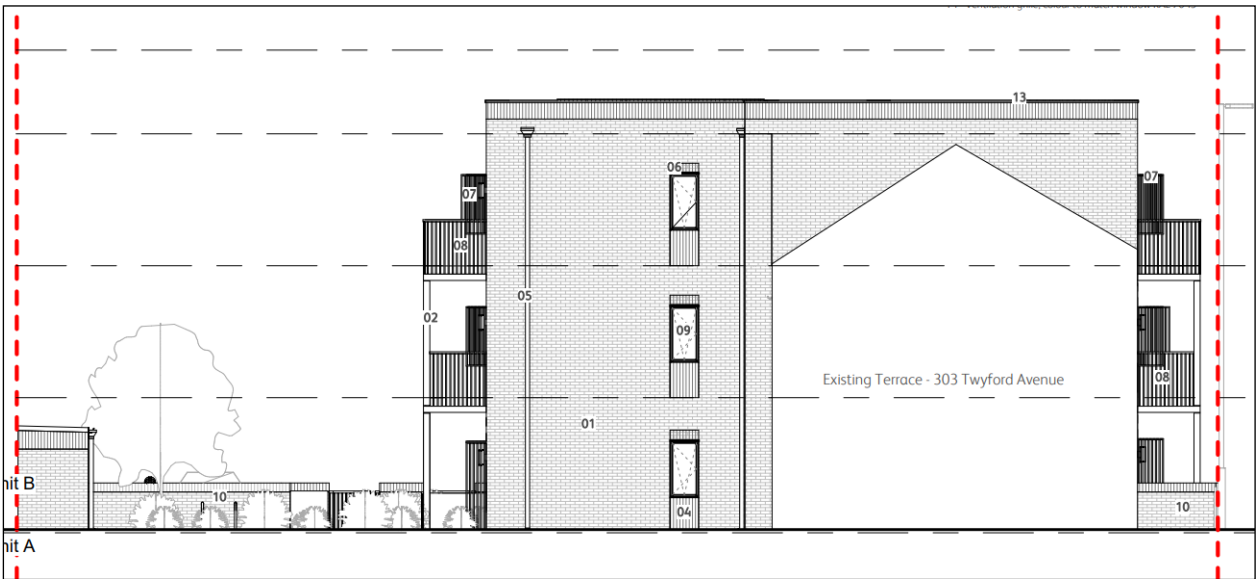


Figure 5 South Elevation

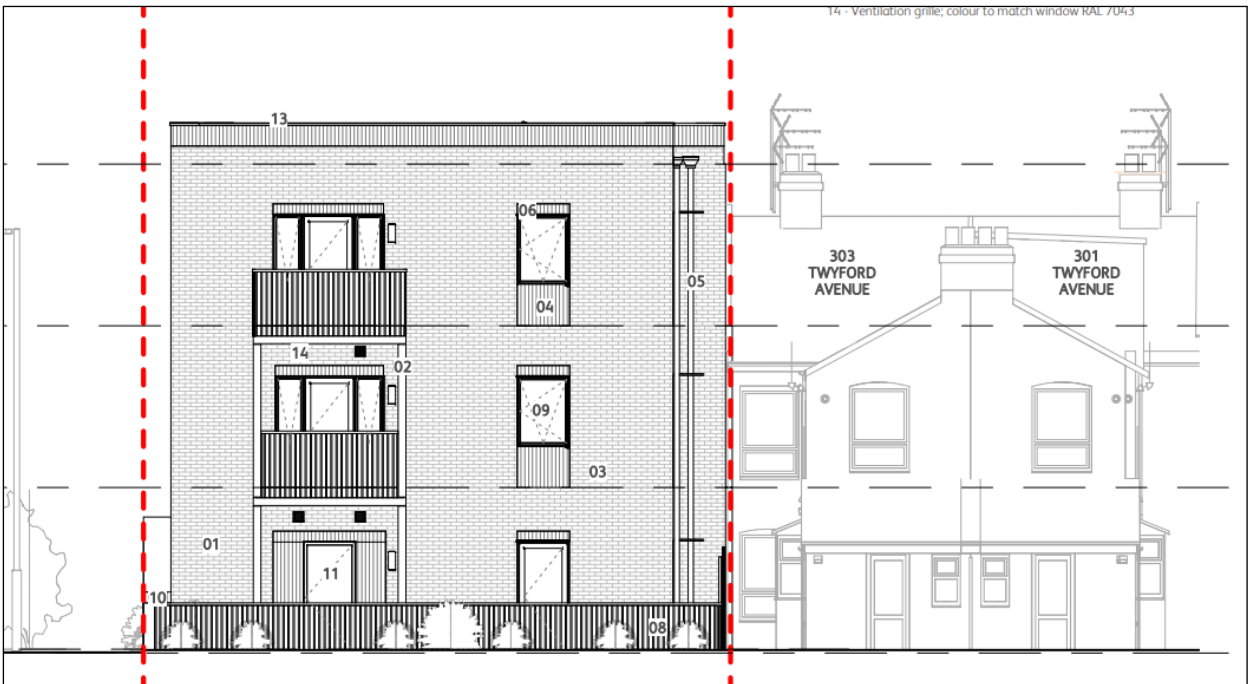


Figure 6 West Elevation



2.10 Planning History

2.11 None relevant.

### **3. POLICY CONTEXT**

3.1 In addition to the aims and objectives of the National Planning Policy Framework (2021), the relevant policies within the relevant policies within the Portsmouth Plan (2012) would include:

- PCS10 - Housing Delivery
- PCS13 - Greener Portsmouth
- PCS15 - Sustainable Design & Construction
- PCS17 - Transport
- PCS19 - Housing Mix, Size & Affordable Housing
- PCS21 - Housing Density
- PCS23 - Design & Conservation

3.2 In addition to the above development plan policies the Solent Recreation Mitigation Strategy (2017) and Updated Nutrient Neutral Mitigation Strategy (June 2022), Housing Standards SPD (January 2013), the Parking Standards & transportation SPD (July 2014) are also material to the determination of the application.

### **4. CONSULTATIONS**

4.1 Contaminated Land

4.2 No objection subject to conditions.

4.3 Natural England

4.4 Awaiting comments back from initial consultation, will update via Supplementary matters, prior to Committee.

4.5 Arboriculture Officer

4.6 No objection subject to conditions relating to the replacement tree planting.

4.7 Ecology

4.8 No objection subject to a condition requiring the measures outlined within the Bat Survey are carried out.

4.9 Highways Authority

4.10 No objection to the scheme.

4.11 Environmental health

4.12 No objection to the scheme.

4.13 Drainage

4.14 No objection to the scheme.

4.15 Environment Agency

4.16 No objection to the scheme subject to four conditions around piling and land contamination.

4.17 Landscape Architects Group

4.18 No objection subject to a condition for final planting details.

**5. REPRESENTATIONS**

5.1 A total of 2 letters have been received objecting to the development. The issues raised can be summarised as follows:

- a) Out of character for the area/terrace;
- b) Loss of light to No.303 Twyford Avenue;
- c) Impact on rear gardens of No.303 Twyford Avenue;
- d) Impact of parking; and
- e) Impact of noise pollution.

**6. COMMENT**

6.1 The main issues for consideration are:

- The principle of the development;
- Design and Impact on heritage assets;
- Impact on residential amenity;
- Flood risk;
- Highway Impacts;
- Impact on nature conservation interests;
- Arboriculture impacts, and
- Other Issues

6.2 The principle of the development

6.3 The site comprises four flats within a building suffering from subsidence, which is no longer considered to be viable to remediate.

6.4 Policy PCS10 of the Local Plan states that the City Council will plan for an additional 7,117 - 8,387 homes between 2010 - 2027 that will be provided in designated areas and through conversions and redevelopment of previously developed land. Furthermore, paragraphs 5.31 and 5.34 of the Local Plan highlight the need to make the most effective use of land which is consistent with the objectives of Section 11 of the NPPF that highlights the importance of using land effectively to provide the homes and other identified needs that communities need. On this basis the proposal is entirely acceptable in principle

6.5 Another aspect for the determination of this application is the fact that Authority does not have a 5-year housing land supply, and the proposed development would contribute towards meeting housing needs. The proposed development has been assessed on this basis and is deemed to be acceptable in principle. However, the specific impacts of the proposal must be considered as to whether the development is appropriate in detail and whether visual harm and/or harm to neighbouring amenity would occur. The detailed assessment is set out below.

6.6 Design

6.7 Section 12 of the National Planning Policy Framework (NPPF) places an emphasis on achieving high quality sustainable development. Paragraph 126 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places are fundamental to what the planning and development process should achieve. Paragraph 130 sets out that developments should ensure that they function well and add to the overall quality of an area; be visually attractive; be sympathetic to local character and history; establish or maintain a strong sense of place and should optimise the potential of a site to accommodate and sustain an appropriate mix of development.

- 6.8 In addition, Policy PCS23 of the Portsmouth Core Strategy (2012) states, inter alia, that new development must be well designed and, in particular, respect the character of the city. A range of guiding principles include the need for excellent architecture, public and private spaces, the need to relate well to the city's heritage and to be of an appropriate scale, density, layout, appearance and materials in relation to the particular context.
- 6.9 The site is located on a corner plot and would require the demolition of the existing building. As highlighted the existing building is suffering from subsidence and therefore not considered to be viable for remediation and renovation. The existing two storey building reflects the adjoining terrace which runs north south.
- 6.10 The area around the site is primarily residential and features a mixture of two and three storey buildings. The proposed building is taller than the existing property and features a simple modern design, with a flat parapet roof. The building would include a curved frontage which would respond well to the corner junction of the roadway. While the building would be a marked difference in form and scale against the adjoining terrace, when viewed from most angles the contrast would not appear overly stark. The additional mass would be most apparent when viewed from the south, as the flank wall would be visible above the existing roofline of the southern property (No.303 Twyford Avenue). This relationship has been carefully considered by Officers at pre-application stage, while this relationship is not ideal, it is mitigated by feature brickwork at the ridge of the roof. Similar building heights are within the locality and the front balcony feature does help in providing not only some interest in depth but also follows the pattern of bay windows present within the terrace. On balance it is considered that subject to an appropriate brick finish of the property the relationship with the southern terrace could be considered appropriate.
- 6.11 The proposal is to include areas of planting along both frontages and a replacement street tree, which should help provide some screening from the street to break up the frontage. Windows would be aluminium, which is will not traditional for the area is a high-quality option and more appropriate for the more contemporary finish of the building. Further windows would include solid courses below and lintels above in contrasting brick, which would help provide visual interest. Overall, the proposal is considered to be off a good quality, modern design, which would accord with the objectives Policy PCS23.
- 6.12 Subject to the conditions set out below regarding materials, tree replacement and landscaping it is considered that the proposal will ensure the development represents a high quality sustainable form of development that accords with the objectives of Policy PCS23 of the 2012 Local Plan and the NPPF.
- 6.19 Impact on residential amenity
- 6.20 Policy PCS23 also requires, inter alia, that new development protects the amenities of existing residents while requiring a good standard of amenity for future occupants.
- 6.21 Existing Residents
- 6.22 Northern neighbours (Nos 2-10 Walden Road and 309 Twyford Avenue)
- 6.23 The proposal would be built essentially over the footprint of the existing building and located approximately 13.4m from the closest neighbour to the north (separated from the roadway). While the proposal would result in additional height and feature windows facing these neighbours at additional height, it is not considered that it would result in a harmful relationship any of these neighbours' amenities.
- 6.24 Eastern neighbours (Nos 300-304 Twyford Avenue and 1-14 Florence Buildings)
- 6.25 The proposed development would be separated from the eastern neighbours by 21m. Given the relatively minor increase in height, it is not considered that the development would result in any significant loss of light or increased sense of enclosure. The proposal would include a balcony

looking onto these neighbours, however once again there is a significant separation between the balcony and opposing neighbours and existing upper floor windows which provide a comparable level of shared overlooking/intervisibility. On balance it is considered that the proposal would not result in harm towards the amenities of these neighbours.

6.26 Southern neighbours (No. 303 Twyford Avenue and adjoining terrace)

6.27 As stated, the immediately adjoining neighbour to the south of the site (No.303 Twyford Avenue) is also owned by PCC. The proposed front balconies would be located approximately 5m from the angled front facing first floor bay windows of the neighbouring property. The balconies would have a depth of 1.5m, with the half of this depth being screened via a brise-soleil to the south. Given the existing first floor bay window, at greater proximity than the proposed balcony it is considered that the level of overlooking, and impact of privacy would be no different from the existing.

6.28 The proposed development would retain a shared lightwell between itself and No.303 Twyford Avenue, though would be built slightly closer and project slightly further within the lightwell than existing. Three south side facing windows are proposed within the lightwell, at ground, first and second floor level. These windows would serve bathrooms and therefore can be obscure glazed and non-opening below 1.7m and this can be conditioned.

6.29 The proposed development would increase the built from above the boundary to a depth of 0.7m within the lightwell. The building would be approximately 4m higher than the existing at eaves height and 1m taller at the ridge height. No.303 Twyford Avenue features two west facing windows at ground and first floor level. The outlook and light for these windows will be impacted by the development. However, considering the existing relationship with the property and the reduction of shared overlooking achieved by the reduction of side facing windows on the proposed building. The impact on the outlook of these windows is not considered to be sufficiently harmful to warrant refusal of the application.

6.30 No.303 Twyford Avenue also includes one upper floor side (north) facing window which serves a bathroom and two ground floor side facing windows which serves the dining room and kitchen. The kitchen is also served by a rear (east) facing window. The dining room window is a projecting square bay window within the lightwell, which also faces east and west. Given the above matters it is not considered that the proposal would result in a harmful impact upon these windows, or the subsequent amenity provided by them.

6.31 The proposal also includes a rear balcony which would be located 6.1m away from the closest southern neighbour. To protect from overlooking from these balconies it is considered justified to include a condition requiring them to be screened for the entirety of their southern aspect. Subject to this screening the amenity to the southern neighbours is on balance considered to be acceptable.

6.30 Western neighbours (No. 1 Walden Road, the adjoining terrace, No.2A Walden Road and No.1 Walker Road)

6.31 The built form maintains a separation from the neighbour No.1 Walden Road of 11.7m. The site faces onto the blank side wall of this neighbours and it is not considered that the proposal would result in any harm towards the amenity of the westerly neighbours.

6.32 On the basis of the foregoing, the proposed development would, by virtue of the layout separation distances, and conditioned screening treatments, be unlikely to materially impact upon the occupants of residents that are adjacent to the application site, or to impact upon them in an acceptable manner given the site's context, and therefore the scheme is compliant with Policy PCS23 of the Local Plan in this regard.

6.33 Future Occupants

6.34 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, and whether the proposed layout would give rise to any materially harmful impacts such as overlooking within the development itself.

- 6.35 The Government's Nationally Described Space Standards were published in 2015 and the applicant has detailed on the submitted plans the size proposed for each of the 1-bedroom apartments. Each of the apartments would exceed the Space Standards. In terms of the internal space provided each of the occupants would have a good standard of amenity that either meets or exceeds the minimum space standards.
- 6.36 Regarding outdoor space, the scheme proposes individual balconies for the four upper floor apartments with an area of communal space to the rear. The balconies would measure approximately 2.8m x 1.5m. The balconies would therefore provide sufficient room for occupants to have a table and chairs. The balconies provided would ensure that there is an appropriate level of outdoor space for the six apartments proposed.
- 6.37 In terms of outdoor space, the scheme would provide for good levels of outdoor space for the apartments thereby adhering to the objectives of Policy PCS23 of the Local Plan and paragraph 130(f) of the NPPF. Furthermore, the site is only 100m away from Southsea Common.
- 6.38 Flood Risk
- 6.39 The site is within Flood Zone 1, areas at least risk of flooding. The Environment Agency have reviewed the application and have raised no objections.
- 6.40 The drainage engineer has reviewed the submission and is satisfied with the detail supplied.
- 6.41 Highway Impacts
- 6.42 Policy PCS17 ensures, inter alia, that the City Council and partners will reduce the need to travel and provide sustainable modes and promote walking and cycling.
- 6.43 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.
- 6.44 The proposal would include 2 off-street car parking spaces to serve the 6 flats. These would be allocated to two of the rear facing flats, to ensure direct natural surveillance of the cars. The Parking Standards and Transport Assessments SPD sets an expectation for 1 space per dwelling and therefore requires 6 car spaces for the development. It is however noted that the existing site has 4 flats and no parking. The increase of 2 flats is therefore met by the two off-street car parking spaces and the level of off street parking would remain unchanged as part of the development.
- 6.45 The proposal would also require 6 cycle parking spaces, 12 long stay cycle spaces are shown in the rear of the site, accessed directly from Walden Road. 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).
- 6.46 Impact on nature conservation interest
- 6.47 The Conservation of Habitats and Species Regulations 2017 [as amended] and the Wildlife and Countryside Act 1981 place duties on the Council to ensure that the proposed development would not have a significant effect on the interest features for which Portsmouth Harbour is designated as a Special Protection Area, or otherwise affect protected habitats or species. The Portsmouth Plan's Greener Portsmouth Policy (PCS13) sets out how the Council will ensure that the European designated nature conservation sites along the Solent coast will continue to be protected.
- 6.48 There are two potential impacts resulting from the accommodation proposed as part of this development. The first being potential recreational disturbance around the shorelines of the

harbours, and the second being from increased levels of nitrogen and phosphorus entering the Solent water environment.

- 6.49 The applicant has identified that through water saving measures within the site, the proposal could have a neutral impact in terms of levels of nitrogen and phosphorus. Natural England have been consulted in this regard and their comments are pending. The applicant has outlined that if this is not accepted by Natural England then they are prepared to use the Council's offsite credit bank in order to mitigate the scheme. If this is required, an alternative Appropriate Assessment will be needed and can be completed post committee decision.
- 6.50 The recommendation is for the Committee to recommend the granting of permission subject to Natural England's response and if required the completion of the Section 106 legal Agreement to secure the mitigation payment for both the recreational bird disturbance and nitrate neutrality.
- 6.51 In terms of the biodiversity value of the site itself, the City Council's Ecology Officer has reviewed the Preliminary Ecological Appraisal and bat survey and has confirmed they raise no objection subject to a condition ensuring the mitigation measures set out in the report are implemented as set out in the report.
- 6.52 Arboriculture Issues
- 6.53 As highlighted there are three street trees located to the north of the site, one (T1) is a mature Japanese Cherry to a height of 11m, while the other two (T2 and T3) are semi-mature cherry trees to a height of 5m. As noted within the application, the Japanese cherry tree is in poor condition and is also resulting in subsidence in the existing building and is therefore to be removed as part of the plans.
- 6.54 As part of the proposal a replacement street is to be planted in location of T1 and an additional tree is to be planted in the rear of the site. The Arboriculture Officer has reviewed the plans and the submitted Arboriculture Assessment and has raised no objection to the scheme subject to a number of conditions around the replacement planting. Subject to these conditions the proposal would accord with the objectives of Policy PCS13 of the Local Plan.
- 6.55 Community Infrastructure Levy
- 6.56 Portsmouth City Council introduced its Community Infrastructure Levy (CIL) charging schedule in April 2012 with a basic CIL rate of £105/sqm. The CIL regulations require indexation to be applied to this rate annually using the RICS CIL Index and the 2023 basic rate is £167.15/sqm. The 2024 basic rate is £179.39/sqm. Most new development which creates over 99sqm of gross internal area or creates a new dwelling is potentially liable for the levy. However, exclusions, exemptions and reliefs from the levy may be available. The proposal would result in the creation of 6 new dwellings totalling 390sqm of GIA floorspace. If existing building discount can be applied to the 311sqm of existing GIA floorspace, the likely CIL chargeable amount will be £13,205.04. No CIL Form 1 was submitted with the application and the estimate is based on proposed floor plan measurements.
- 6.57 Other Issues
- 6.58 It is not considered that the proposal would result any additional noise issues compared with the existing situation.
- 6.59 Conclusion
- 6.60 Having regard to all of the material planning matters which have been explored above, it is considered that the proposal would represent a positive addition to the area, would not unduly impact upon the amenities of neighbouring properties, would afford future occupants with a good standard of living, and would represent an efficient use of a brownfield site and subject to the conditions set out below the development would secure the necessary landscaping and ecological benefits. The development would yield new housing for the city, and it is located at a very

sustainable location. Having considered that there would be no significant/unacceptable adverse impacts on residential amenity, character and design, the surrounding highway network and nature conservation interests, the development would contribute to the achievement of sustainable development as required by the NPPF.

**RECOMMENDATION I** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to grant Conditional Permission subject to completion of a Legal Agreement to secure the following:

- i. To mitigation of the development with respect to the recreational disturbance to the Special Protection Areas.
- ii. Nitrate neutrality mitigation for the Special protection Areas

**RECOMMENDATION II** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary, and

**RECOMMENDATION III** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to refuse planning permission if a Legal Agreement to secure the affordable housing, and the mitigation of the development with respect to the Special Protection Areas pursuant to Recommendation I has not been completed within three months of the date of this resolution.

### **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.

#### 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 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:

220243-ECD-XX-XX-DR-A- 07002 - Existing Site Plan,  
220243-ECD-XX-XX-DR-A- 07100 - Existing Ground Floor Plan,  
220243-ECD-XX-XX-DR-A- 07101 - Existing First Floor Plan,  
220243-ECD-XX-XX-DR-A- 07102 - Existing Roof Plan,  
220243-ECD-XX-XX-DR-A- 07110 - Existing Site Demolition Plan,  
220243-ECD-XX-XX-DR-A- 07200 - Existing Section AA,  
220243-ECD-XX-XX-DR-A- 07201 - Existing Section BB,  
220243-ECD-XX-XX-DR-A- 07300 - Existing North Elevation,  
220243-ECD-XX-XX-DR-A- 07301 - Existing East Elevation,  
220243-ECD-XX-XX-DR-A- 07302 - Existing South Elevation,  
220243-ECD-XX-XX-DR-A- 07303 - Existing West Elevation,  
220243-ECD-XX-XX-DR-A- 07000 - Site Location Plan,  
220243-ECD-XX-XX-DR-A-07001 - Proposed Block Plan,  
220243-ECD-XX-XX-DR-A- 07130 - Proposed Site Plan,  
220243-ECD-XX-XX-DR-A- 07131 - Proposed Landscaping Plan,  
220243-ECD-XX-XX-DR-A- 05100 - Ground Floor GIA Plan,  
220243-ECD-XX-XX-DR-A- 05101 - First Floor GIA Plan,  
220243-ECD-XX-XX-DR-A- 05102 - Second Floor GIA Plan,

220243-ECD-XX-XX-DR-A- 05103 - Proposed Roof Plan,  
220243-ECD-XX-XX-DR-A- 05110 - GF General Arrangement Plan,  
220243-ECD-XX-XX-DR-A- 05111 - FF General Arrangement Plan,  
220243-ECD-XX-XX-DR-A- 05112 - SF General Arrangement Plan,  
220243-ECD-XX-XX-DR-A- 05201 - Section AA,  
220243-ECD-XX-XX-DR-A- 05202 - Section BB,  
220243-ECD-XX-XX-DR-A- 05300 - North Elevation,  
220243-ECD-XX-XX-DR-A- 05301 - East Elevation,  
220243-ECD-XX-XX-DR-A- 05302 - South Elevation,  
220243-ECD-XX-XX-DR-A- 05303 - West Elevation,  
220243-ECD-XX-XX-DR-A- 05400 - 1B2P Unit Type A,  
220243-ECD-XX-XX-DR-A- 05410 - 1B2P Unit Type B,  
220243-ECD-XX-XX-DR-A- 05420 - 1B2P Unit Type C,  
220243-ECD-XX-XX-DR-A- 05430 - 1B2P Unit Type D,  
220243-ECD-XX-XX-DR-A- 05510 - Proposed Refuse Strategy,  
220243-ECD-XX-XX-DR-A- 05520 - Proposed Fire Strategy,  
220243-ECD-XX-XX-DR-A- 05521 - Internal Fire Strategy

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

### Land Contamination

3) No works pursuant to the development hereby approved shall commence until there has been submitted to and approved in writing by the Local Planning Authority (or within such extended period as may be agreed with the Local Planning Authority) the following in sequential order:

a) A desk study (undertaken following best practice including BS10175:2011+A2:2017 'Investigation of Potentially Contaminated Sites Code of Practice) documenting all the previous and current land uses of the site and potential contaminants associated with those uses. The report shall contain a conceptual model (diagram, plan, and network diagram) showing the potential contaminant linkages (including consideration of asbestos), including sampling rationale for a site investigation scheme based on the conceptual model, explaining all proposed sample locations and depths (Phase 1 report).

*Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with saved Policy DC21 of the Portsmouth City Local Plan (2006), and paragraph 183 of the National Planning Policy Framework (2021). The responsibility for safe development rests with landowner / developer.*

b) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the conceptual model in the desk study (to be undertaken in accordance with BS10175:2011+A2:2017 and BS8576:2013 'Guidance on investigations for ground gas – Permanent gases and volatile organic compounds (VOCs)'). The report shall refine the conceptual model of the site and confirm either that the site is currently suitable for the proposed end use or can be made so by remediation. Remedial options shall be detailed with a remedial options appraisal. The report shall include a detailed assessment of the risk to all receptors that may be affected, including those off-site (Phase 2 report).

*Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with saved Policy DC21 of the Portsmouth City Local Plan (2006), and paragraph 183 of the National Planning Policy Framework (2021). The responsibility for safe development rests with landowner / developer.*

c) A remediation method statement report detailing the remedial scheme and measures to be undertaken to avoid risk from contaminants and/or gases when the development hereby authorised is completed, detailing proposals for future maintenance, monitoring and arrangements for contingency action as necessary. If identified risks relate to bulk gases, this will require the



submission of the design report, installation brief, and validation plan as detailed in BS8485:2015+A1:2019 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings and have consideration of CIRIA 735 Good practice on the testing and verification of protection systems for buildings against hazardous ground gases. The remedial options appraisal shall have due consideration of sustainability as detailed in ISO 18504:2017 Soil quality – Sustainable remediation. It shall include the nomination of a competent person to oversee the implementation of the remedial scheme and detail how the remedial measures will be verified on completion (Phase 3 report).

*Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with saved Policy DC21 of the Portsmouth City Local Plan (2006), and paragraph 183 of the National Planning Policy Framework (2021). The responsibility for safe development rests with landowner / developer.*

Any changes to these components require the written consent of the Local Planning Authority.

The scheme shall be implemented as approved.

4) The development shall not be occupied until a stand-alone verification report has been submitted by the competent person approved pursuant to condition (3)c) above. The report shall demonstrate that the remedial scheme has been implemented fully in accordance with the remediation method statement and demonstrate that site remediation criteria have been met. For the verification of gas protection schemes the applicant should follow the agreed validation plan. Thereafter the remedial scheme shall be maintained in accordance with the details approved under conditions (3)c).

*Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with saved Policy DC21 of the Portsmouth City Local Plan (2006), and paragraph 183 of the National Planning Policy Framework (2021). The responsibility for safe development rests with landowner / developer.*

#### Piling

5) Piling and other foundation designs using penetrative methods shall not be carried out other than with the written consent of the local planning authority. The development shall be carried out in accordance with the approved details.

*Reason: To ensure that the proposed construction does not harm groundwater resources in line with paragraph 174 of the National Planning Policy Framework (NPPF).*

#### Development on land affected by contamination

6) No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified:
  - all previous uses
  - potential contaminants associated with those uses
  - a conceptual model of the site indicating sources, pathways and receptors
  - potentially unacceptable risks arising from contamination at the site
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the

remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

*Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 174 of the NPPF.*

#### Verification report

7) Prior to any part of the permitted development being occupied, a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

*Reason: To ensure that the site does not pose any further risk to the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 174 of the NPPF.*

#### Previously Unidentified Contamination

8) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall be implemented as approved.

*Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 174 of the NPPF.*

#### Ecology

9) The development shall proceed in accordance with the measures set out in Sections 5.1.3.1 and 5.1.3.2 of the Phase II Bat Survey report by Eco Support (September 2023).

*Reason: In accordance with the NPPF and NERC Act.*

#### Materials

10) (a) Notwithstanding the submitted details, no development works other than those of ground works, and construction of the building's foundations shall take place until:

i) a full and detailed schedule of all materials and finishes (including a samples board) to be used in the construction of the external surfaces of the development hereby permitted has been submitted to and approved in writing by the Local Planning Authority; and

ii) a sample panel (minimum 2 metres square) for each of the proposed masonry types to demonstrate: colour; texture; bedding and bonding pattern; mortar colour and finish has been installed at the application site and approved in writing by the Local Planning Authority; and

(b) The development shall be carried out in full accordance with the schedule of materials and finishes agreed pursuant to part (a)i) of this Condition; and the sample panels approved pursuant to part (a)ii) of this Condition retained on site for verification purposes until completion of the construction works.

*Reason: To secure a high quality finish to the development in the interests of visual amenity in accordance with Policy PCS23 of the Portsmouth Plan (2012), and the aims and objectives of the National Planning Policy Framework (2021).*

### Landscaping

11) (a) Notwithstanding the submitted details, the development hereby permitted shall not be occupied/brought into use until detailed hard and soft landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; and

(b) Unless otherwise agreed in writing with the Local Planning Authority, the hard landscaping schemes approved pursuant to part (a) of this Condition shall completed prior to first occupation of the building hereby permitted; and

(c) The soft landscaping schemes approved pursuant to part (a) of this Condition shall be carried out within the first planting/seeding season following the first occupation of the building. Any trees/shrubs which, are removed or become damaged or diseased shall be replaced in the next planting season with others of the same species, size and number as originally approved.

*Reason: To secure a high-quality setting to the development and ensure adequate external amenity space for future users of the building in the interest of visual and resident amenity in accordance with Policy PCS23 of the Portsmouth Plan (2012) and the Tall Buildings SPD (2012).*

### Bicycle Storage

12) (a) Unless otherwise agreed in writing with the Local Planning Authority, the development hereby permitted shall not be occupied/brought into use until bicycle storage facilities have been provided in accordance with a detailed scheme first submitted to and approved in writing by the Local Planning Authority. The scheme shall include, but not be limited to: details of any storage structures, lockers, maintenance facilities, electric changing points, security measures to protect cycles and users; and

(b) The bicycle storage facilities approved pursuant to part (a) of this Condition 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).*

### Refuse Storage

13) (a) Notwithstanding the submitted details, no part of the development hereby permitted shall be occupied/brought into use until facilities for the storage of refuse, recyclable materials and food waste have been provided in accordance with a detailed scheme first submitted to and approved in writing by the Local Planning Authority; and

(b) The facilities approved pursuant to parts (a) of this Condition shall thereafter be permanently retained for the storage of refuse and recyclable materials at all times.

*Reason: To ensure that adequate provision is made for the storage of refuse and recyclable materials in accordance with policy PCS23 of the Portsmouth Plan (2021).*

### Balcony Obscure Glass Screens

14) Prior to first occupation of the relevant properties (in this case unit X and X), details of privacy screens for the southern elevation of the balconies shall be submitted for the written approval of the Local Planning Authority. The screens shall be installed prior to the first occupation and retained as such unless otherwise agreed in writing by the Local Planning Authority.

*Reason: In the interests of residential amenity in accordance with Policy PCS23 of the Portsmouth Plan (2012).*

### Parking Retention

15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) the parking spaces as shown on the approved plans shall be kept available for the parking of cars and shall not be converted to any use without the prior written consent of the Local Planning Authority.

*Reason: To ensure adequate parking and in the interests of highway convenience in accordance with Policy PCS17 of the Portsmouth Plan (2012)*

### Parking Provision

16) The parking area shown on the approved plans shall be laid out and retained as such prior to the first occupation of the development hereby permitted.

*Reason: To ensure adequate parking and in the interests of highway convenience in accordance with Policy PCS17 of the Portsmouth Plan (2012)*

### Tree Replacement (Tree Planting: T1 replacement planting)

17) Prior to completion or first occupation of the development hereby approved, whichever is the sooner; full details of all proposed tree planting shall be submitted to and approved in writing by the Local Planning Authority. This will include planting and maintenance specifications, including cross-section drawings, use of guards or other protective measures and confirmation of location.

Species: Acer campestre 'William Caldwell'  
Size: Heavy Standard  
Supplier: Hillier.

All tree planting shall be carried out in accordance with those details and at those times.

Any trees that are found to be dead, dying, severely damaged or diseased within five years of the completion of the building works OR five years of the carrying out of the landscaping scheme (whichever is later), shall be replaced in the next planting season by specimens of similar size and species in the first suitable planting season.

*Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 to safeguard and enhance the amenity of the area, to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality in accordance with PCS13.*

### Tree Planting (Tree Planting: Garden Tree)

18) Prior to completion or first occupation of the development hereby approved, whichever is the sooner; full details of all proposed tree planting shall be submitted to and approved in writing by the Local Planning Authority. This will include planting and maintenance specifications, including cross-section drawings, use of guards or other protective measures and confirmation of location.

Species: Arbutus unedo  
Size: Heavy Standard  
Supplier: Any reputable tree nursery

All tree planting shall be carried out in accordance with those details and at those times.

Any trees that are found to be dead, dying, severely damaged or diseased within five years of the completion of the building works OR five years of the carrying out of the landscaping scheme (whichever is later), shall be replaced in the next planting season by specimens of similar size and species in the first suitable planting season.

*Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 to safeguard and enhance the amenity of the area, to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality in accordance with PCS13.*

REFER to second informative.

### Architectural Detailing

19) Notwithstanding the submitted details, no development works other than those of demolition, and construction of the buildings' foundations, shall take place until precise constructional drawings of key architectural features at a 1:20 and 1:5 scale (or such other appropriate scale as may be agreed) have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in full accordance with the details approved.

*Reason: To secure a high-quality appearance for buildings on a locally prominent site, in accordance with Policy PCS23 of the Portsmouth Plan (2012).*

### Water use

20) Unless otherwise agreed in writing by the Local Planning Authority, the development hereby permitted shall not be occupied until written documentary evidence has been submitted to, and approved by, the local planning authority, demonstrating that the development has achieved:

- a maximum water use of 110 litres per person per day as defined in paragraph 36(2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a post-construction stage water efficiency calculator.

*Reason: To ensure that the development as built will minimise its need for resources and be able to fully comply with the conclusions of the Appropriate Assessment in accordance with policy PCS13 and PCS15 of the Portsmouth Plan.*

## **INFORMATIVE**

1. Before any works take place at this location including any Demolition works, can the Developer please contact Martin Thompson or Fred Willett at Colas on [martin.thompson@colas.co.uk](mailto:martin.thompson@colas.co.uk) or [fred.willett@colas.co.uk](mailto:fred.willett@colas.co.uk) this is for Highway coordination purposes.

2. The following British Standards should be referred to:

- a) BS: 3882:2015 Specification for topsoil
  - b) BS: 3998:2010 Tree work – Recommendations
  - c) BS: 3936-1:1992 Nursery Stock - Part 1: Specification for trees and shrubs
  - d) BS: 4428:1989 Code of practice for general landscaping operations (excluding hard surfaces)
- The London Tree Officers Association - [www.ltoa.org.uk](http://www.ltoa.org.uk)

- e) BS: 4043:1989 Recommendations for Transplanting root-balled trees
- f) BS: 5837 (2012) Trees in relation to demolition, design and construction - Recommendations
- g) BS: 7370-4:1993 Grounds maintenance part 4. Recommendations for maintenance of soft landscape (other than amenity turf).
- h) BS: 8545:2014 Trees: from nursery to independence in the landscape - Recommendations
- i) BS: 8601:2013 Specification for subsoil and requirements for use

# Agenda Item 6

23/01073/FUL

WARD: HILSEA

12 THURBERN ROAD PORTSMOUTH PO2 0PJ

CHANGE OF USE FROM A CLASS C3 DWELLINGHOUSE TO A 7-BED/7-PERSON HOUSE IN MULTIPLE OCCUPATION (RESUBMISSION OF 22/01152/FUL)

[23/01073/FUL | CHANGE OF USE FROM A CLASS C3 DWELLINGHOUSE TO A 7-BED/7-PERSON HOUSE IN MULTIPLE OCCUPATION \(RESUBMISSION OF 22/01152/FUL\) | 12 THURBERN ROAD PORTSMOUTH PO2 0PJ](#)

**Application Submitted By:**

Mrs Carianne Wells  
Applecore PDM Ltd

**On behalf of:**

Mr Lawrence Hubbard

**RDD:** 21st August 2023

**LDD:** 16th October 2023

## 1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee as it is a re-submission of an application, previously refused by the Planning Committee on 12<sup>th</sup> July 2023.

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

- Principle of Development including compliance with policy;
- Impacts on Amenity including parking; and
- Other material considerations.

### 1.3 Site and surroundings

1.4 The application site is a two-storey terraced dwelling with rooms in the roof in a predominately residential area.

### 1.5 The Proposal

1.4 The Applicant has sought planning permission for the change of use of the dwelling from its current last lawful use falling within dwellinghouse (Class C3) to allow up to 7 individuals to live together as an HMO. It can be noted that a previous planning permission ref no. 22/00304/FUL was granted for change of use from dwelling house (Class C3) to a dual use of either dwelling house (Class C3) or House in Multiple Occupation (Class C4) on 16/06/2022, though the potential use under Class C4 has not yet been carried out at the site.

### 1.5 Planning History

1.6 22/01152/FUL: Change of use from Class C3 (dwelling house)/Class C4 (House in Multiple Occupation) to 7 person House in Multiple Occupation (Sui Generis). Refused Committee Decision (29.08.2023). Reason for refusal:

1. *The layout of the accommodation and resultant usable floorspace provided in bedrooms 2 & 3 is insufficient to provide occupants with amenity in preference or in addition to the communal living space, and therefore overall the development is not considered to provide a good standard of living environment for those occupants contrary to PCS23 of the Portsmouth Plan.*

2. *It has been identified that in the absence of a suitable agreement to secure appropriate mitigation measures for the increased discharge of nitrogen and phosphorous into the Solent water environment, the development 10 would be likely to have a significant effect on the Solent Special Protection Areas and is therefore contrary to the National Planning Policy Framework, policy PCS13 of the Portsmouth Plan and the Conservation of Habitats and Special Regulations 2017 (as amended).*

1.7 Following this refusal the application has changed agents and the floorplans re-measured and re-configured. An affidavit has been submitted by the applicant stating that the previous measurements were incorrect in relation to the floorplans. The new floorplans have been implemented in part and the Case Officer has attend a further site visit, to validate the measurements on the plans and can confirm they are correct to the revised floorplans. As highlighted above the application was previously refused due to the layout of bedroom 2 and 3. The revised submission proposes an alternative layout for the ground and first floor, with detailed differences show on **Figure 3 and 4**. The primary changes are to the ensuites which have been altered to reduce the amount of the space within the bedrooms made up by narrow, hallway elements.

1.8 22/00304/FUL: Change of use from dwelling house (Class C3) to dwelling house (Class C3) or House in Multiple Occupation (Class C4). Conditional Permission (16.06.2022).

## **2.0 POLICY CONTEXT**

2.1 In addition to the aims and objectives of the National Planning Policy Framework (2021), the relevant policies within the Portsmouth Plan (2012) would include: PCS17 (Transport), PCS20 (Houses in Multiple Occupation and PCS23 (Design and Conservation).

2.2 Guidance for the assessment of applications that is relevant to the application includes The Parking Standards and Transport Assessments Supplementary Planning Document (2014), The Technical Housing Standards - nationally described space standards (2015), The Solent Recreation Mitigation Strategy (2017), The Updated Nutrient Neutral Mitigation Strategy (2022), and The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD')

## **3.0 CONSULTATIONS**

3.1 Private Sector Housing: The City Council Private Sector Housing team advise that this property would require to be licenced under Part 2, Housing Act 2004.

## **4.0 REPRESENTATIONS**

4.1 Four objection comments have been received raising the following concerns:

- a) Overlooking into rear bedroom windows of adjacent properties;
- b) Anti-social behaviour;
- c) Parking; and
- d) Waste and recycling;
- e) Loss of light; and
- f) Impact on local services.

## **5.0 COMMENT**

5.1 The main issues to consider in the determination of this application is whether the proposal is acceptable in principle and whether the reasons the previous application was refused have been overcome.

5.2 Principle



- 5.3 The House in Multiple Occupation (HMOs) - Ensuring mixed and balanced communities Supplementary Planning Document (SPD) (as amended in October 2019) 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 housing mix of certain communities. Two of the key matters of principles 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.
- 5.4 In this case the application site and the refurbishment of the property has substantially progressed in readiness for occupation as an HMO under planning permission 22/00304/FUL. The application has been made to recognise the works to pursue an alternative internal layout, repurposing a ground floor living room, allowing for 7 bedrooms within the site. The existing benefit of a permission to use the dwelling as a C4 HMO is a material consideration in the determination. In any case the application is not considered, on its individual facts to create any material impact on the balance of the community in the area. 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. As the minor increase in occupancy does not change this mix of dwellings the proposal has no impact on this guidance. For reference, it can be noted however that the relevant 50m radius area is currently made up of 1 HMOs out of 67 properties, a percentage of 1.49%. This proposal of course has no effect on that percentage. The HMO SPD also described a number of circumstances where new HMOs are considered not desirable, such as where they 'sandwich' single household dwellings between HMOs or create a number of HMOs next to each other. As this proposal does not involve the creation of a new HMO these considerations are not brought into effect.



Figure 1 HMO Layout

5.5 The repurposing of internal rooms to accommodate the additional occupants within this proposal will have an effect on the ratio of communal/amenity space compared to private bedroom space available internally for future occupants. While this matter will also be considered as part of the necessary licensing of the HMO by the Private Sector Housing team under the Housing Act, the HMO SPD identifies this as a consideration as part of the assessment of whether a good standard of living environment is provided for future residents as required by Local Plan Policy PCS23. Under the current proposal the following room sizes would be provided, as compared to the minimum size prescribed in the Council's adopted guidance:

Room	Area Provided:	Required Standard:
Bedroom 1	13.23m <sup>2</sup>	6.51m <sup>2</sup>
Ensuite B1	2.85m <sup>2</sup>	2.74m <sup>2</sup>
Bedroom 2	12.58m <sup>2</sup>	6.51m <sup>2</sup>
Ensuite B2	2.79m <sup>2</sup>	2.74m <sup>2</sup>
Bedroom 3	10.15m <sup>2</sup>	6.51m <sup>2</sup>
Ensuite B3	2.74m <sup>2</sup>	2.74m <sup>2</sup>
Bedroom 4	11.74m <sup>2</sup>	6.51m <sup>2</sup>
Ensuite B4	2.74m <sup>2</sup>	2.74m <sup>2</sup>
Bedroom 5	12.25m <sup>2</sup>	6.51m <sup>2</sup>
Ensuite B5	2.94m <sup>2</sup>	2.74m <sup>2</sup>
Bedroom 6	10.74m <sup>2</sup>	6.51m <sup>2</sup>
Ensuite B6	2.74m <sup>2</sup>	2.74m <sup>2</sup>
Bedroom 7	11.74m <sup>2</sup>	6.51m <sup>2</sup>
Ensuite B7	2.74m <sup>2</sup>	2.74m <sup>2</sup>
Combined Living Space	23.49m <sup>2</sup>	22.5m <sup>2</sup>

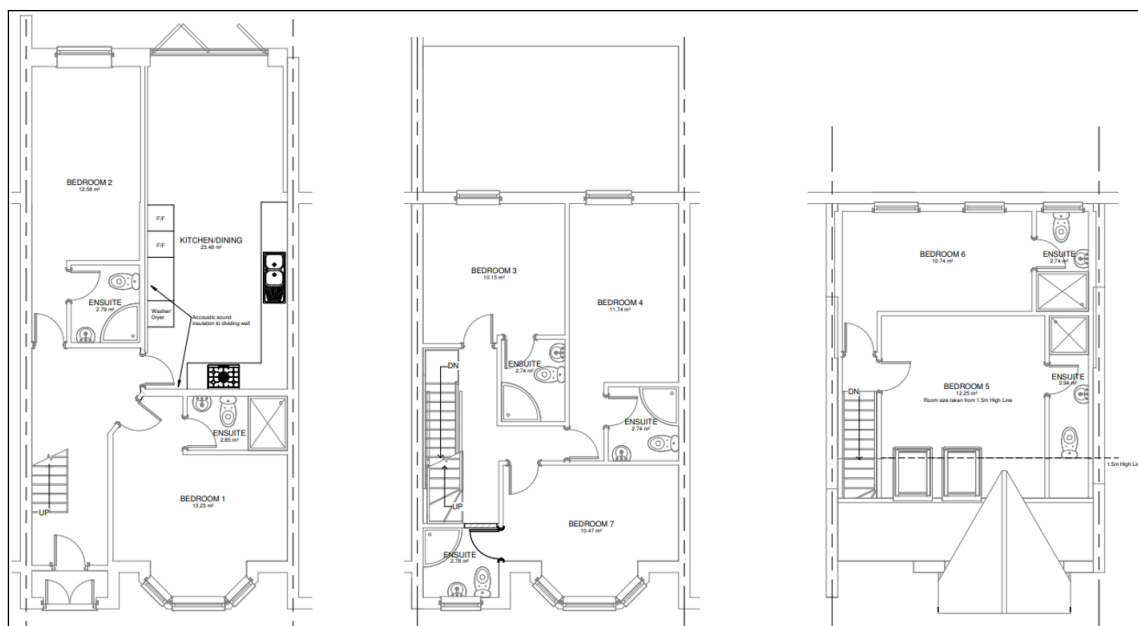


Figure 2 Proposed Floorplans

5.6 This is a re-submission of a previously refused scheme, as highlighted above the application was previously refused due to the layout of bedroom 2 and 3. The revised submission proposes an alternative layout for the ground and first floor, with detailed differences show on **Figure 3 and 4**. The primary changes are to the ensuites which have been altered to reduce the amount of the space within the bedrooms made up by narrow, hallway elements. It is considered that given the revisions to the internal layout and size of the rooms, in the Officers view, the resubmission has overcome the previous reason for refusal. On the basis of the information supplied with the application, the

resulting layout is considered to result in a satisfactory standard of living environment and therefore result in an acceptable standard of accommodation for the occupation.

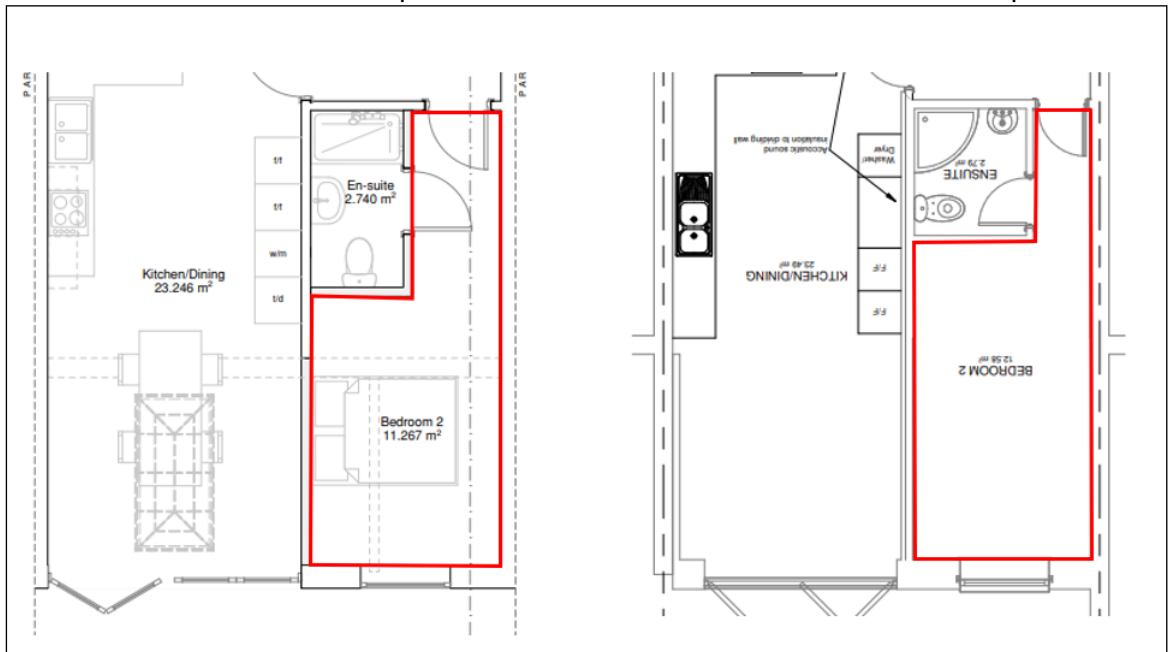


Figure 3 Previous ground floor layout and current ground floor layout

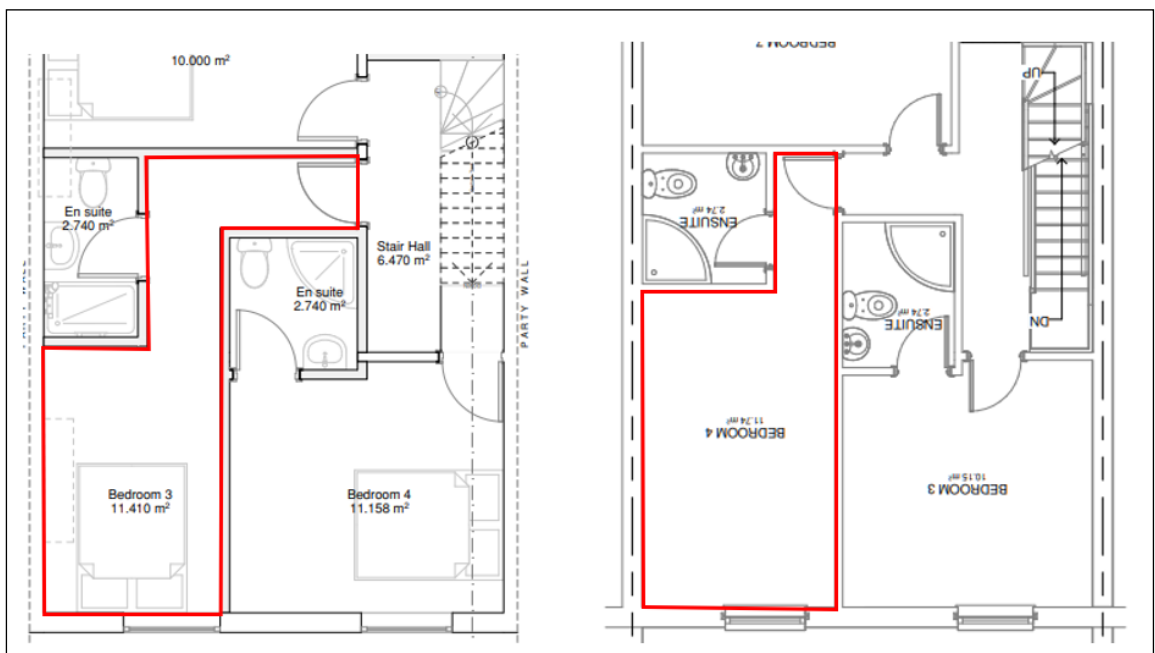


Figure 4 Previous first floor layout and current first floor layout

### 5.7 Amenity and Parking

- 5.8 The proposal would increase the occupancy compared to the approved HMO by 1 occupant. While this would have a proportionate increase in activity within and coming and going from the property this small increase in the number of residents is not considered likely to have any demonstrable adverse effect on residential amenity for neighbours of the surrounding area. Nor is the increase in parking demand considered to be materially different from that generated by a C3 dwelling house.
- 5.9 Similarly the minor increase of occupants is not considered to have a demonstrable impact on the parking need and thus parking availability in the wider area. It is noted that the Council's adopted Parking Standards, within the associated SPD has the same expectation for the number of parking spaces, 2 spaces per dwelling, for any scale of

HMO with 4 or more bedrooms. Consequently, the proposal remains in accordance with the Council's adopted guidance on parking provision.

#### 5.10 Other Material Considerations

5.11 A further consideration in this case is the necessity to recognise the fall-back position available to the applicant; that is the position they could take if this application is refused. In this case the addition of only 1 occupant to the existing lawful HMO is not considered to amount to a material change in the use of the dwelling. However as this site has not yet been used as a six bed HMO the determination of the application must be made in the first instance for a change of use between a C3 dwelling house and a 7 bed HMO, against the policies of the development plan. As the application complies with these policies this notional fall back, while material, does not need to be considered further.

5.12 The Committee's attention is drawn to the current 5 year housing land supply position within Portsmouth. In any planning application, the decision-maker will need to 'balance' any harms identified due the development against any benefits also arising. Principally, for this HMO application, the benefits are to the provision of housing through the provision of additional bedspace of occupation within the HMO. While this is a small contribution to the overall housing stock, the Council currently is unable to identify a 'five year supply' of housing, with only a 2.9 year supply currently identifiable. In this circumstance, the Council is directed to consider that the policies which are most important to determinations associated with housing provision within the Local Plan are out of date. The consequence of this is that decision takers are directed to apply a tilted balance to determinations so that permission is only withheld when the adverse impacts '*...significantly and demonstrably outweigh the benefits...*'. Any harm associated with the increase in occupancy in this area are considered to be insignificant and therefore fall short of being able to significantly and demonstrably outweigh even the small benefit to the city's housing stock of the provision of bedspaces.

#### 5.13 Impact on Special Protection Areas

5.14 Changing the use of the premises from a C3 dwelling to a 7 bed HMO will result in an increase in occupancy which will have an adverse impact on the Solent Special Protection Area and cause an increase in nitrate output and therefore a condition should be applied requiring mitigation to be secured.

### 6.0 CONCLUSION

6.1 As detailed above, the application is considered to be fully comply with the relevant policies of the Local Plan meeting the adopted standards for room sizes and providing a good standard of living accommodation in accordance with Policy PCS23 of the Local Plan. As the application itself, notwithstanding any weight that should be given to potential alternative routes to allowing a similar occupation, requires planning permission it is recommended that permission be granted subject to the imposition of conditions requiring implementation of the additional occupancy within 3 year (a Time Limit condition), requiring that the development be carried out in accordance with plans submitted (an Approved Plans condition), and requiring that that increased occupancy should not occur until an appropriate scheme of mitigation is submitted and approved to mitigate any impact on the Solent Special Protection Area.

**RECOMMENDATION I** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to grant Conditional Permission subject to completion of a Legal Agreement to secure the following:

- i. To mitigation of the development with respect to the recreational disturbance to the Special Protection Areas.
- ii. Nitrate neutrality mitigation for the Special protection Areas

**RECOMMENDATION II** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary, and

**RECOMMENDATION III** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to refuse planning permission if a Legal Agreement to secure the affordable housing, and the mitigation of the development with respect to the Special Protection Areas pursuant to Recommendation I has not been completed within three months of the date of this resolution.

**Conditions:**

**1) Time Limit**

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

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

**2) Approved Plans**

Unless otherwise agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Sui Gen Plans PG.6180.21.6 Rev A, TQRQM22306133813088.

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

**3) 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.

**4) External works**

Prior to first occupation of the property as a House in Multiple Occupation within Use Class C4, the building operations indicated within approved drawing Elevations - PL04, namely the construction of the rear dormer, shall be completed.

Reason: To ensure that adequate and communal living space is provided in accordance with Policy PCS23 of the Portsmouth Plan (2012) and the Houses in Multiple Occupation Supplementary Planning Document (2019).

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# Agenda Item 7

23/01144/FUL

WARD:HILSEA

46 SHADWELL ROAD PORTSMOUTH PO2 9EJ

**CHANGE OF USE FROM A DWELLINGHOUSE (CLASS C3) TO A 7-BED/7-PERSON HOUSE IN MULTIPLE OCCUPATION**

[23/01144/FUL | Change of use from a Class C3 dwellinghouse to a 7-bed/7-person House in Multiple Occupation | 46 Shadwell Road Portsmouth PO2 9EJ](#)

**Application Submitted By:**

Mrs Carianne Wells  
Applecore PDM Ltd

**On behalf of:**

Mr Daniel Lyons

**RDD:** 16.11.2023

**LDD:** 14.12.2023

## 1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee due to a call-in requests from Cllr Simpson & 6 neighbour objections.

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

- The principle of development;
- Standard of accommodation;
- Relevant planning history providing fallback position
- Parking;
- Waste;
- Amenity impacts upon neighbouring residents;
- Impact upon the Solent Protection Areas; and
- Any other raised matters.

## 2.0 SITE AND SURROUNDINGS

2.1 The application site comprises of a two-storey mid-terraced dwelling, with rear dormer and loft conversion, located to the northern side of Shadwell Road as shown in **Figure 1** below. The property is set back from the highway by a small front garden and a fair sized rear garden. To the rear of the property is a private road to residents' garages.

2.2 The surrounding area is predominantly residential in character with similar terraced properties. The application site falls within a residential area characterised by rows of two-storey terraced properties.

2.3 It should be noted that planning permission was granted for a dual use as a dwelling house in either use class C3 or C4 in June 2023 but this permission is not considered to have yet been implemented. The extant permission is within the 3 year time limit for

implementation and thus provides a fallback position but the site currently remains in last use as a C3 dwelling.



Figure 1 Location plan

### 3.0 THE PROPOSAL

3.1 Planning permission is sought for the Change of use from dwellinghouse (Class C3) to House in Multiple Occupation for seven people. All bedrooms would be for single occupancy.

3.2 The proposed internal accommodation, as shown in **Figure 2** below, comprises the following:

- Ground Floor - Two bedrooms (all with ensuite shower, toilet and handbasin), communal Kitchen/Dining room, and a shared WC (with handbasin).
- First Floor - Three bedrooms (all with a shower, toilet and handbasin ensuite)
- Second Floor - Two bedrooms (all with a shower, toilet and handbasin ensuite).

3.3 The Applicant has stated that works to extend the property have been undertaken under permitted development (without the need to apply for planning permission). The



extensions and alterations can be completed under permitted development regardless of whether the property is in Class C3 or C4 use. These works include a single storey rear extension, a rear dormer and rooflights to the front roofslope; these works are not included in the application. They should not be considered as part of the application.

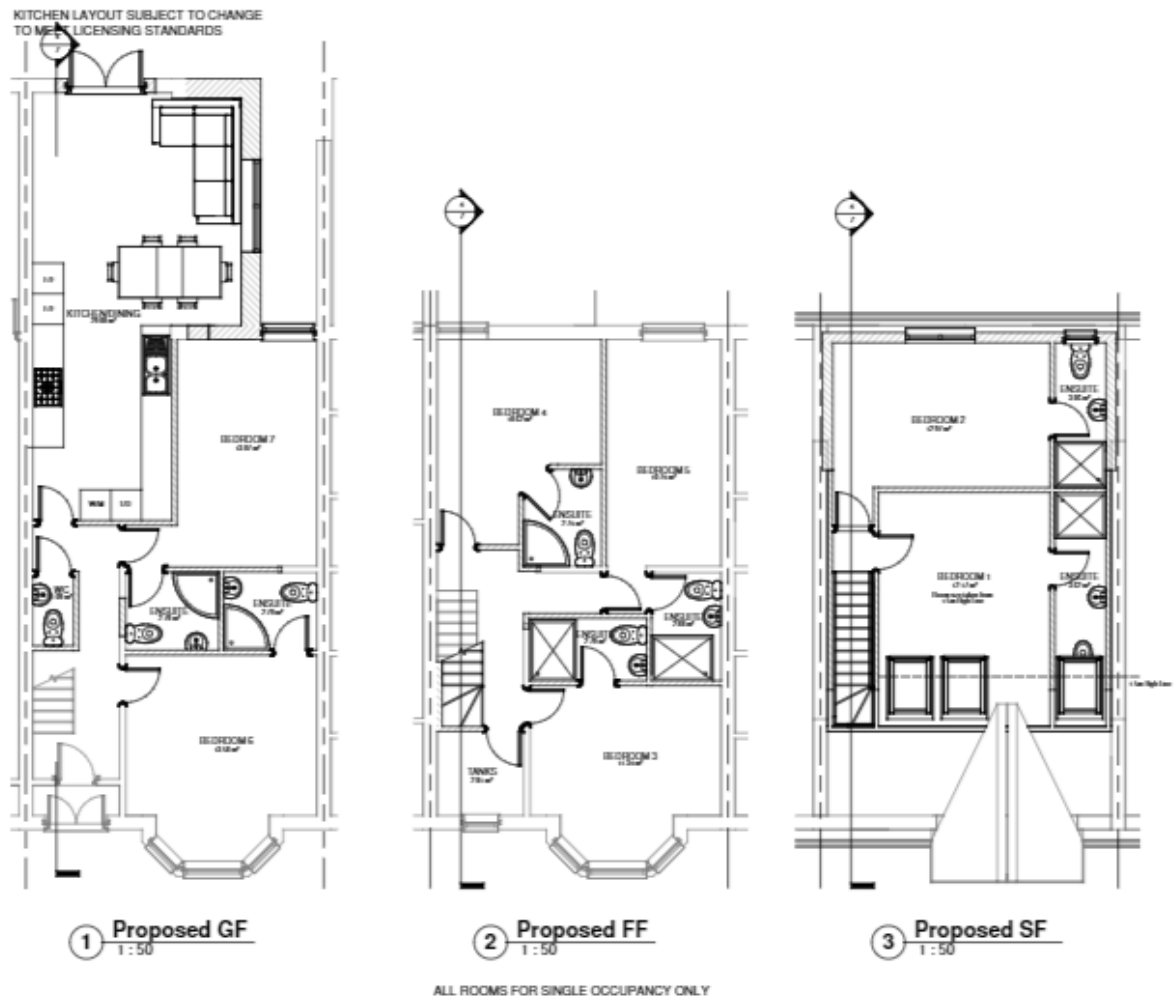
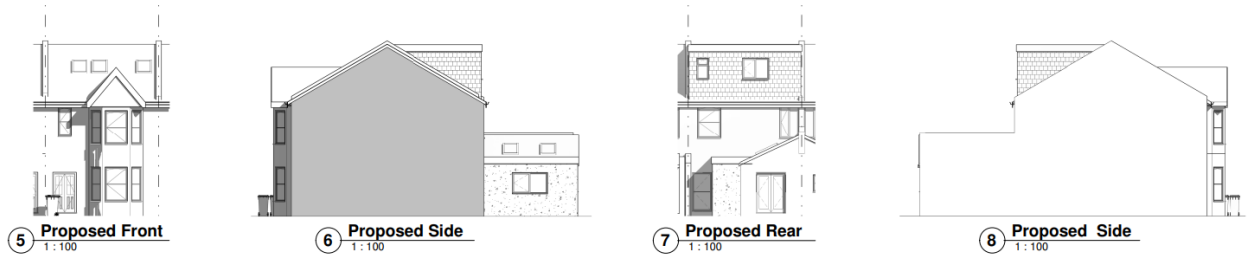


Figure 2 Proposed Floor Plans & Elevations

#### 4.0 PLANNING HISTORY

- 4.1** **23/00059/GPDC**- Construction of single storey rear extension extending 4.85m beyond the rear wall, with a height of 2.8m to the eaves and a maximum height of 3m - Prior notification required and granted - 08.09.2023
- 4.2** **23/00465/FUL** - Change of use from dwellinghouse (Class C3) to purposes falling within Class C3 (dwellinghouse) or Class C4 (house in multiple occupation)- Permitted - 22.06.2023

## **5.0 POLICY CONTEXT**

### 5.1 Portsmouth Plan (2012)

5.2 In addition to the aims and objectives of the National Planning Policy Framework (2021), due weight has been given to the relevant policies within the Portsmouth Plan (2012), which include:

- PCS17 (Transport)
- PCS20 (Houses in Multiple Occupation)
- PCS23 (Design and Conservation).

### 5.3 Other Guidance

5.4 Guidance for the assessment of applications that is relevant to the application includes:

- National Planning Practice Guidance (revised 2021)
- The Parking Standards and Transport Assessments Supplementary Planning Document (2014)
- The Solent Recreation Mitigation Strategy (2017)
- The Updated Interim Nutrient Neutral Mitigation Strategy (2022)
- The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD').

## **6.0 CONSULTATIONS**

- 6.1 Private Sector Housing - Based on the layout and sizes provided with this application this property would require to be licenced under Part 2, Housing Act 2004. Unclear if bedroom 1 is compliant with licensing
- 6.2 Highways Engineer - No objection. Shadwell Road is a residential road with bus stops in the vicinity along Northern Parade and London Road. The proposed application seeks to convert an existing 3 bedroom residential unit to a 7 bedroom HMO. Given the additional of up to four bedrooms, there is therefore the potential for increased instances of residents driving around the area hunting for a parking space, however this an issue of residential amenity for you to consider in your determination of the application. It is not considered that size of development would lead to a material impact to the function of the highway.

The proposal does indicate secure cycle storage spaces within the rear garden and therefore this storage should be implemented prior to occupation of the new residential units

## **7.0 REPRESENTATIONS**

7.1 Seven objections been received in response to the application including one from Cllr Russell Simpson.

7.2 The above representations of objection have raised the following concerns:

- a) Increase in noise and disturbance;
- b) Increase in crime and anti-social behaviour;
- c) Lack of car parking provision leading to an increase in traffic and exacerbation of existing on-street parking problems;
- d) Undue strain on local services and infrastructure, including the sewage, drainage, waste management and Doctors/Dentists
- e) Concerns about impact on community
- f) Extension will block light to neighbouring property.

## 8.0 COMMENT

8.1 The main determining issues for this application relate to the following:

- The principle of Development;
- 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

Five year Housing Land supply.

8.3 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 182). 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:

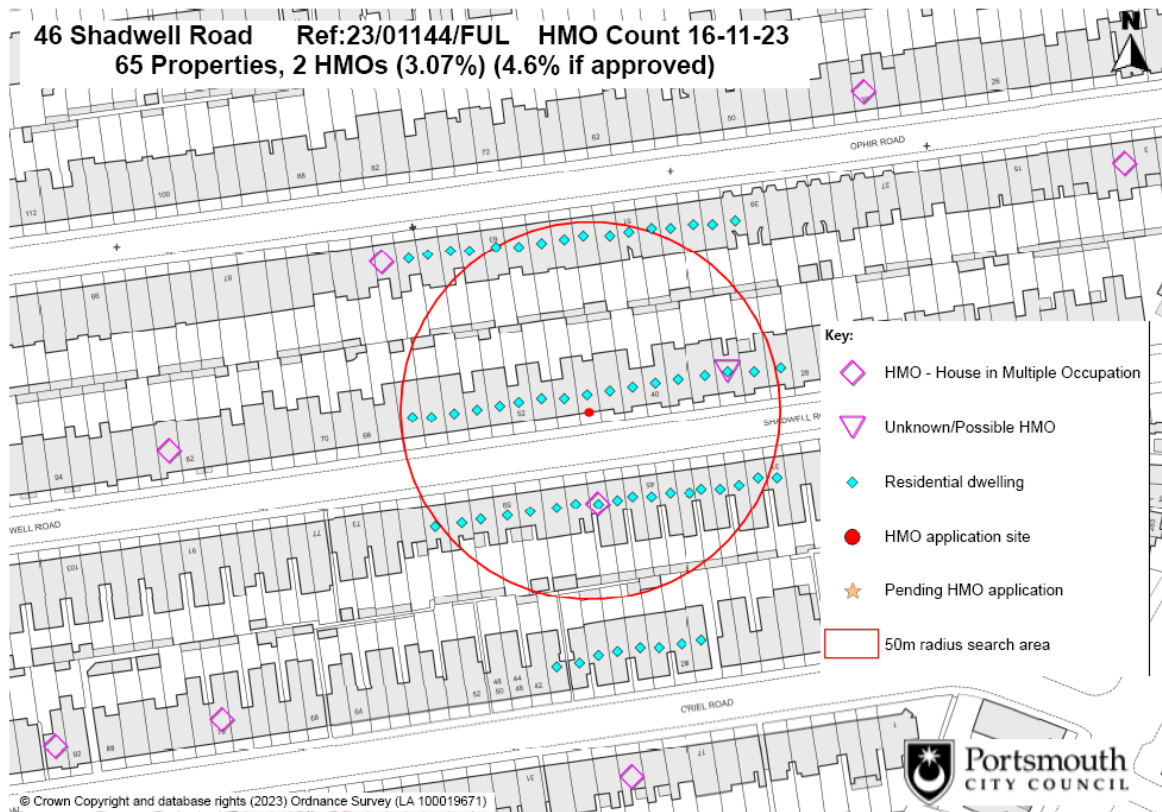
- I. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or
- II. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

8.4 Currently, the Council can demonstrate 2.9 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 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.

### HMO Policy

- 8.5 Permission is sought for the use of the property as a Sui Generis HMO for 7 persons. The property is currently considered to have a lawful use as a self-contained dwelling (Class C3), however, an extant permission for flexible C3/C4 use has already established the acceptability of a HMO in the area and presents a fallback position which should be given significant weight in the consideration.
- 8.6 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.
- 8.7 It should be noted that HMO use has already been granted at this property and therefore there would be no further increase in the numbers of HMOs should this application be granted. Therefore, it would not be sustainable at appeal, or reasonable in a costs defence, to refuse this application under Policy PCS20 (Mixed and Balanced Communities).
- 8.8 Based on information held by the City Council, of the 65 properties within a 50 metre radius of the application site, 2 property has been identified as an HMO in lawful use. Therefore, the existing number of HMOs equates to 3.07% of the properties within the search area. The addition of the application property would result in one additional property being an HMO within the 50m radius (4.6%) which, regardless of the fallback falls below the 10% threshold limit above which an area is considered to be imbalanced.



8.9 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.

8.10 Having regard to the above, the proposal would comply with the aims and objectives of Policies PCS19 and PCS20 of the Portsmouth Plan (2012).

8.11 Standard of accommodation

8.12 The application seeks Sui Generis HMO use for 7 persons and proposes the following room sizes, as shown in **Table 1** below.

Room	Area Provided	Required Standard
Bedroom 1 (Single use)	12.1m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 2 (Single use)	12.6 m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 3 (Single use)	11.3 m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 4 (Single use)	10.6 m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 5 (Single use)	10.75 m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 6 (Single use)	13.5 m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 7 (Single use)	12.98 m <sup>2</sup>	6.51m <sup>2</sup>

Shared WC (Ground Floor)	1.2 m <sup>2</sup>	1.17m <sup>2</sup>
Communal Kitchen/Dining area (ground floor)	29 m <sup>2</sup>	22.5m <sup>2</sup> (because all bedrooms exceed 10m <sup>2</sup> )
Ensuite bathroom for bedroom 1	3.63 m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom for bedroom 2	2.8m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom for bedroom 3	2.97 m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom for bedroom 4	2.75 m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom for bedroom 5	2.85 m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom for bedroom 6	2.79 m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom for bedroom 7	2.76 m <sup>2</sup>	2.74m <sup>2</sup>
Tanks room (First Floor)	2.8 m <sup>2</sup>	Not Required

**Table 1** - HMO SPD (Oct 2019) compliance

- 8.13 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 combined living/dining room. 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<sup>2</sup> and the accommodation is otherwise acceptable as communal space. 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 - submitted proposed floor plans show a sufficient amount of space within the communal kitchen/dining area to accommodate communal dining/lounge space.
- 8.14 All habitable rooms have good access to natural light and in addition, a rear garden also provides external amenity space for the residents.
- 8.15 All the 7 bedrooms would have ensuite facilities, with an additional shared WC on the ground floor providing acceptable sanitary facilities for occupants and visitors. The accommodation therefore would provide a suitable overall arrangement of sanitary facilities.
- 8.16 Impact on neighbouring living conditions
- 8.17 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 in Class C3, would be unlikely to be significantly different from the occupation of the property by up to 7 unrelated persons as an HMO.
- 8.18 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 one HMO would not be significantly harmful, nor would the increase in 1 occupant when considered against the fallback position. The principle of an HMO use at this dwellinghouse has already been established as acceptable.

- 8.19 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.
- 8.20 Highways/Parking
- 8.21 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 Sui Generis HMOs with four or more bedrooms. It should be noted that the expected level of parking demand for a Class C3 dwellinghouse with five bedrooms is also 2 off-road spaces. The proposal has no off-street parking, which is no change from the current use.
- 8.22 As explained above, neither the Highways Officer nor Planning Officer highlights an issue with the scheme on the grounds of a lack of off-street parking. As the SPD requirement for parking is not different for the proposal than a similarly sized Class C3 dwellinghouse or C4 HMO (2 spaces), it is considered that refusal on a lack of parking is not reasonable or defensible. There is no objection on either highway safety grounds and therefore refusal 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, 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.
- 8.23 The Council's Adopted Parking Standards set out a requirement for C4 HMO's to provide space for the storage of at least 4 bicycles. The property has a rear garden where a proposed secure cycle storage is shown to be located - it is acknowledged that access to the cycle storage can only be achieved through the house given that there is no rear access to the garden. The requirement for cycle storage is recommended to be secured by condition.
- 8.24 Waste
- 8.25 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.
- 8.26 Impact on Special Protection Areas
- 8.27 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 can be secured through a s111 agreement.
- 8.28 Human Rights and the Public Sector Equality Duty ("PSED")
- 8.29 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.

- 8.30 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 CONCLUSION**

- 9.1 Having regard to all material planning considerations, giving significant weight to the fallback position available to applicant of implementing the previous permission for a 6 person HMO, 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) (2021).

### **RECOMMENDATION Conditional Permission**

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

- (a) Receipt of no objection from Natural England;
- (b) 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 completed within three months 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:

- Sui Gen Plan - Dwg No. PG. 8059 · 23 · 7
- Elevations Dwg No.PG.8059 · 23 · 5

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.

**Water Efficiency**

4) 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**

5) Prior to the occupation of the property as a HMO for 7 persons, the single storey rear extension and rear dormer proposed to be constructed under permitted development allowances 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.

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# Agenda Item 8

23/00553/FUL

WARD: ST THOMAS

58 SOMERS ROAD, SOUTHSEA, PO5 4PX.

CHANGE OF USE FROM 6-BED/6-PERSON HOUSE IN MULTIPLE OCCUPATION TO 7-BED/7-PERSON HOUSE IN MULTIPLE OCCUPATION

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=RFQ10GMOL7M00](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=RFQ10GMOL7M00)

**Application Submitted By:**

Mrs Carianne Wells of Applecore PDM Ltd.

**On behalf of:**

Parable Properties Ltd

**RDD:** 11<sup>th</sup> May 2023

**LDD:** 06<sup>th</sup> July 2023

## 1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee due to increase in number of occupants.

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

- The principle of development;
- Standard of accommodation;
- Parking; and
- Any other material considerations.

1.3 Site and surroundings

1.4 The application relates to a two-storey, mid-terrace dwellinghouse (Class C3) located on the east side of Somers Road as shown in **Figure 1** below. The dwellinghouse is set back from the road by a small front forecourt and to the rear of the property is an enclosed garden. The existing The property is in use as a house is in multiple occupation. The application site within a predominantly residential area characterised by rows of similar two-storey terraced properties with a similar visual style.

*Figure 1 - Site Location Plan*



1.5 The proposal

1.6 The Application has sought planning permission for the change of use of the dwelling from the current lawful use of a HMO with up to six individuals living together to allow up to 7 individuals to live together as an HMO. This change in occupancy will involve the repurposing of internal rooms but no external operational development forms part of this application.

The proposed internal accommodation, as shown in **Figure 2** below, comprises the following:

- Ground Floor - Two bedrooms (each with a shower, toilet and handbasin ensuite), and Kitchen/Dining
- First Floor - Three bedrooms (each with a shower, toilet and handbasin ensuite); and
- Second Floor - Two bedrooms (each with a shower, toilet and handbasin ensuite).

There would be no other external operational development forming part of this application. The bin store should be within the forecourt while the cycle would be within a rear garden shed.

1.7 Planning History

- 1.8 (22/00063/GPDC) - Construction of single-storey rear extension that comes out a maximum of 6m beyond the rear wall of the original house with a maximum height of 3m and a maximum height of 2.8m to the eaves. Prior Approval not required.

(22/01654/FUL) - Change of use from house in multiple occupation (Class C4) to purposes falling within dwellinghouse (Class C3) or house in multiple occupation (Class C4). Conditional Permission.

## **2.0 POLICY CONTEXT**

### **2.1 Portsmouth Plan (2012)**

- 2.2 In the addition to the aims and objectives of the National Planning Policy Framework (2023), due weight has been given to the relevant policies within the Portsmouth Plan (2012), which include:

- PCS17 (Transport)
- PCS20 (Houses in Multiple Occupation)
- PCS23 (Design and Conservation).

### **2.3 Other Guidance**

- 2.4 Guidance for the assessment of applications that is relevant to the application includes:

- National Planning Practice (revised 2023)
- The Parking Standards and Transport Assessments Supplementary Planning Document (2014)
- The Solent Recreation Mitigation Strategy (2017)
- The Interim Nutrient Neutral Mitigation Strategy (2022)
- The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD').

## **3.0 CONSULTATIONS**

- 3.1 Private Sector Housing: Based on the layout and sizes provided there are no adverse comments to be made. This property would require to be licenced under Part 2, Housing Act 2004.

- 3.2 Highways Engineer: No objection.

Somers Road is an unclassified residential street with the terraced dwellings and blocks of flats with the majority of parking accommodated through restricted on street parking. The demand for parking on street appears to be high with the level of permits issued higher than the number of spaces.

No traffic assessment has been provided however given the small scale of the development, I am satisfied that the proposal would not have a material impact on the local highway network.

In light of the above, it is not considered that the change would result in a material impact to the highway function or safety.

#### **4.0 REPRESENTATIONS**

4.1 No representations have been received.

#### **5.0 COMMENT**

5.1 The main issues to consider in the determination of this application is whether the proposal is acceptable in principle.

##### 5.2 Principle

5.3 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 housing mix of certain communities. Two of the key matters of principles 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.

5.4 In this case the application site is already in lawful use as an HMO and the application has been made to recognise the intention to increase its occupation by 1 occupant. As such the application is not considered, on its individual facts to create any material impact on the balance of the community in the area. 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. As the minor increase in occupancy does not change this mix of dwellings the proposal has no impact on this guidance. For reference, it can be noted however that the relevant 50m radius area is currently made up of 21 HMOs out of 81 properties, a percentage of 25.9. This proposal of course has no effect on that percentage and the small increase of HMO dwelling occupants in this area is not considered to create any demonstrable imbalance or adverse implications. The HMO SPD also described a number of circumstances where new HMOs are considered not desirable, such as where they 'sandwich' single household dwellings between HMOs or create a number of HMOs next to each other. As this proposal does not involve the creation of a new HMO these considerations are not brought into effect.

5.5 The HMO use of this site currently benefits from a Licence granted by Portsmouth City Council to operate as an HMO with up to 7 occupants. This licence was granted on 20<sup>th</sup> July 2023.

5.6 The repurposing of internal rooms to accommodate the additional occupants within this proposal will have an effect on the ratio of communal/amenity space compared to private bedroom space available internally for future occupants. While this matter will also be considered as part of the necessary licensing of the HMO by the Private Sector Housing team under the Housing Act, the HMO SPD identifies this as a

consideration as part of the assessment of whether a good standard of living environment is provided for future residents as required by Local Plan Policy PCS23. Under the current proposal the following room sizes would be provided, as compared to the minimum size prescribed in the Council's adopted guidance:

**Table 1 - HMO SPD (Oct 2019) compliance**

<b>Room</b>	<b>Area Provided</b>	<b>Size provided for in Guidance</b>
Bedroom 1 (Second floor)	18.89m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 2 (Second floor)	13.16m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 3 (first floor)	12.03m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 4 (first floor)	11.15m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 5 (first floor)	14.32m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 6 (ground floor)	11.06m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 7 (ground floor)	10.30m <sup>2</sup>	6.51m <sup>2</sup>
Communal Kitchen/Dining area (ground floor)	32.36m <sup>2</sup>	34m <sup>2</sup> /22.5m <sup>2</sup>
Ensuite bathroom 1 (second floor)	3.86m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 2 (second floor)	2.79m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 3 (first floor)	2.88m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 4 (first floor)	2.88m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 5 (first floor)	2.91m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 6 (ground floor)	2.75m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 7 (ground floor)	2.75m <sup>2</sup>	2.74m <sup>2</sup>





dwelling. Under s57 Town and Country Planning Act 1990 ('TCPA') there is a general requirement that development should not be carried out, except with planning permission. However not all changes of use are considered to be 'development' and therefore not all changes require planning permission. Under s55 of the Town and Country Planning Act 1990 'development' is defined as making of a *material* change in the use of any buildings or land. Whether or not a change is a material change is a matter of fact and degree to be assessed on its own merits. Members will note a number of joint appeal decisions, the 'Campbell Properties' appeal dated 29 April 2021, and the 'Lane' appeal decision dated 9 March 2023 wherein the Inspector considered a number of similar changes of use and, on their individual merits, identified examples whereby a change in the occupancy of an existing HMO with up to 6 occupants to an occupancy up to 7 occupants, and a change in occupancy from up to 6 occupants to an occupancy of up to 8 occupants was not considered to be a material change of use notwithstanding it moved the classification of the dwellings outside of Use Class C4 of the Use Classes Order. While every application must be considered on their own individual merits these examples provide clear guidance on the correct interpretation of s55 of the TCPA and that appeal decision is considered to be a material consideration in the determination of similar applications. Members may also note the previous decisions of Portsmouth's Planning Committee which have contrary to Officer recommendation determined similar changes in occupation amounted to a material change in use, primarily due to a conclusion that due to the intensity of the use of the accommodation; the impact on parking, waste, amenity impact upon neighbouring residents; and the impact on the solent special protection area the changes considered in those cases on their own individual merits amount to development requiring planning permission. The 'Lane' appeal decisions of 9 March 2023 where against three such Planning Committee decisions and the Planning Inspector in those case disagreed both with the judgement of the Committee and was critical of the justification, noted above, as a basis for that judgement.

- 5.12 In the circumstances of the case the subject of this report it is considered that the increase in occupancy does not result in a significant difference in the character of the activities that would occur under the proposed occupation compared to the existing lawful use as an HMO with up to six occupants. As such it is considered that the change of use is not material and planning permission is not required for the increase in occupancy described in the application. The Applicant therefore has a fall-back position of being able to lawful carry out the change in occupation without the benefit of Planning Permission.
- 5.13 Should it be considered necessary to assess the merits of the application, notwithstanding the advice of Officers' above, the Committee's attention is drawn to the current 5 year housing land supply position within Portsmouth. In any planning application, the decision-maker will need to 'balance' any harms identified due the development against any benefits also arising. Principally, for this HMO application, the benefits are to the provision of housing through the provision of additional bedspace of occupation within the HMO. While this is a small contribution to the overall housing stock, the Council currently is unable to identify a 'five year supply' of housing, with only a 2.9 year supply currently identifiable. In this circumstance, the Council is directed to consider that the policies which are most important to determinations associated with housing provision within the Local Plan are out of date. The consequence of this is that decision takers are directed to apply a tilted balance to determinations so that permission is only withheld when the adverse impacts '*...significantly and demonstrably outweigh the benefits...*'. Any harm associated with the increase in occupancy in this area are considered to be insignificant and therefore fall short of being able to significantly and demonstrably

outweigh even the small benefit to the city's housing stock of the provision of bedspaces, should such assessment be considered necessary.

5.14 No representations were received from the neighbours and neither the private sector housing nor the Highways have objected to the proposal.

5.15 Impact on Special Protection Areas

5.16 As there is a measurable increase in occupancy from 2.4 persons (for a C4 dwelling) to 7 persons, mitigation for increased Nitrate and Phosphate Output into the Solent and Recreational Disturbance to the SPA is required. This can be secured through a s111 agreement, which the applicant has agreed to.

**6.0 CONCLUSION**

6.1 As detailed above the application is considered to fully comply with the relevant policies of the Local Plan. However, notwithstanding the compliance or otherwise of the proposal with the policies of the Local Plan it is noted that on the details of this case the changes in the character of activities are not sufficiently significant, as a matter of fact and degree, to be considered to result in a material change in the use of this dwelling. As such planning permission is not required for the described in the application and the proposal could be carried out as a fall-back position irrespective of the determination of this application. This is considered a material consideration of overriding weight, and unconditional planning permission should therefore be granted.

6.2 Should the Committee conclude, contrary to this recommendation, that the change in occupation, as a matter of planning judgement, fact and degree in this specific case results in a material change of use requiring planning permission then they should consider whether permission should be granted with conditions. In such a circumstance, as the merits of the proposed use comply fully with the relevant policies of the Local Plan and associated guidance, the Committee would need to consider whether to resolve to grant permission, subject to the imposition of conditions requiring implementation of the additional occupancy within 3 years (a Time Limit condition), requiring that the development be carried out in accordance with plans submitted (an Approved Plans condition), and requiring that that increased occupancy should not occur until an appropriate scheme of mitigation is submitted and approved to mitigate any impact on the Solent Special Protection Area.

**RECOMMENDATION: UNCONDITIONAL PLANNING PERMISSION**

# Agenda Item 9

23/00657/FUL

WARD: CENTRAL SOUTHSEA

59 MANNERS ROAD, PORTSMOUTH, PO4 0BA.

CHANGE OF USE FROM HOUSE IN MULTIPLE OCCUPATION (CLASS C4) TO A 8-BED/8-PERSON HOUSE IN MULTIPLE OCCUPATION

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=RFQI0GMOL7M00](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=RFQI0GMOL7M00)

**Application Submitted By:**

Mrs Carianne Wells of Applecore PDM Ltd.

**On behalf of:**

Mr Costa Repanos

**RDD:** 13<sup>th</sup> June 2023

**LDD:** 31<sup>st</sup> July 2023

## 1.0 SUMMARY OF MAIN ISSUES

- 1.1 This application is brought before Planning Committee due to five objections as well as the request of Councillor Horton.
- 1.2 The main issues for consideration in the determination of the application are as follows:
  - Principle of Development including compliance with policy
  - Impacts on Amenity including parking
  - Other material considerations
- 1.3 Site and surroundings
- 1.4 The application relates to a two-storey, mid-terrace dwellinghouse (Class C3) located on the north side of Manners Road as shown in **Figure 1** below. The dwellinghouse is set back from the road by a small front forecourt and to the rear of the property is an enclosed garden. The existing The property is in use as a house is in multiple occupation. The application site within a predominantly residential area characterised by rows of similar two-storey terraced properties with a similar visual style.

*Figure 1 - Site Location Plan*



1.5 The proposal

1.6 The Application has sought planning permission for the change of use of the dwelling from the current lawful use of a HMO with up to six individuals living together to allow up to 8 individuals to live together as an HMO. This change in occupancy will involve the repurposing of internal rooms but no external operational development forms part of this application.

The proposed internal accommodation, as shown in **Figure 2** below, comprises the following:

- Basement - Storage;
- Ground Floor - Two bedrooms (each with a shower, toilet and handbasin ensuite), and Kitchen/Dining
- First Floor - Four bedrooms with separate communal W/C, and a shower, toilet and handbasin; and
- Second Floor - Two bedrooms (each with a shower, toilet and handbasin ensuite).

There would be no other external operational development forming part of this application. The bin store should be within the forecourt while the cycle would be within a rear garden shed.

### 1.7 Planning History

- 1.8 (21/00136/GPDC) - Construction of single-storey rear extension that comes out a maximum of 4.6m beyond the rear wall of the original house with a maximum height of 3.3m and a maximum height of 3m to the eaves. Prior Approval not required.

(22/01166/CPL) - Application for Certificate of Lawful Development for the proposed change of use from a 5 bedroom to 8 bedroom House in Multiple Occupation (Sui Generis). Refused on 14<sup>th</sup> July 2023.

## 2.0 POLICY CONTEXT

- 2.1 In addition to the aims and objectives of the National Planning Policy Framework (2021), the relevant policies within the Portsmouth Plan (2012) would include: PCS17 (Transport), PCS20 (Houses in Multiple Occupation and PCS23 (Design and Conservation).
- 2.2 Guidance for the assessment of applications that is relevant to the application includes The Parking Standards and Transport Assessments Supplementary Planning Document (2014), The Technical Housing Standards - nationally described space standards (2015), The Solent Recreation Mitigation Strategy (2017), The Updated Nutrient Neutral Mitigation Strategy (2022), and The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD')

## 3.0 CONSULTATIONS

- 3.1 Private Sector Housing: The City Council Private Sector Housing team advise that this property would require to be licenced under Part 2, Housing Act 2004.
- 3.2 Highways Engineer: No objection.

Manners Road is an unclassified residential street. No traffic assessment has been provided however given the small scale of the development, I am satisfied that the proposal would not have a material impact on the local highway network.

The proposed application seeks to convert an existing 3 bedroom residential dwelling to a 8 bedroom HMO.

Portsmouth City Councils Parking SPD gives the expected level of vehicle and cycle parking within new residential developments. The requirement for a 3 bedroom dwelling is 1.5 vehicle spaces and 2 cycle spaces, this compared with the requirement for a 8 bedroom HMO is 2 spaces and 4 cycle spaces. Consequently, the parking and cycle requirement remains materially unchanged.

Cycle store is outlined within the rear garden and therefore a suitable worded condition should be attached to secure prior to occupation.

In light of the above, this proposal does not materially increase the parking demand associated with the site and consequently I would not wish to raise a highway objection to this proposal.

3.3 Waste Reduction Initiatives Team Leader: No objection

There appears to be enough room in the forecourt for the required bins needed for an 8 bed HMO. The applicant will need to purchase 1 x 360 litre and 1 x 140 litre refuse and 1 x 360 litre recycling bins directly from Waste Management at Portsmouth City Council prior to anyone moving in, they will also need to inform us at least 3 weeks prior to anyone moving in so records can be updated and ensure bins are in stock.

#### 4.0 REPRESENTATIONS

4.1 8 representations have been received from 8 neighbouring properties, 6 objecting to the proposed development, including one from Councillor Horton and Councillor Gerada, and 2 in support.

The above representations in objection have raised the following concerns:

- a) Impact of more rubbish and waste bins on road would great;
- b) Will add to traffic especially if the planned closure of Orchard Road goes ahead;
- c) High concentration of HMOs and pressure on amenities.

#### 5.0 COMMENT

5.1 The main issues to consider in the determination of this application is whether the proposal is acceptable in principle.

5.2 The 'fall back' position

5.3 Whether or not the change in occupancy of an HMO amounts to a 'material change of use' resulting in development requiring planning permission is a matter of planning judgement based on the specific circumstance of each case. That judgement will need to assess whether there is some significant difference in the character of the activities from what has gone on previously as a matter of fact and degree. As seen in other applications within this and previous agendas, Officers' view, as demonstrated by the 'Campbell properties' and the 'Lane' appeal decisions is that some changes of use do not necessarily represent development requiring Planning Permission. Therefore, in other cases, the Applicant would benefit from a 'fall-back' position of not requiring Planning Permission. A large number of applications for change in the occupation of a dwelling from a 6 person HMO to a 7 or 8 person HMO have been assessed and, on their own facts Officers have concluded that they do not constitute a material change of use. It can be noted that the Planning Committee has come to a different conclusion.

5.4 In this instance a different circumstance falls be considered when compared to these other cases. The last use of the application property was as a 5 person HMO. The application seeks occupation of the property as an 8 person HMO. This would result in a more significant change in usage which in the Officers view would represent a material change in the use of the property and therefore would require Planning Permission. This is seen through the likely difference in impact that the additional occupants would represent and which is considered to make a significant difference in

the character, and scale of the activities resulting from the proposed use. Other, nominally similar, applications changing the occupation from 6 occupants to 7 seven occupants have been found in the opinion of officers to result in insufficiently change to be considered a material change of use. The same conclusion, in material similar circumstances as noted above, has been drawn at six other sites by Inspectors in the 'Campbell Properties' and 'Lane' appeals. Those appeals are material considerations and to draw a different conclusion to that which they might superficially suggest, as is the recommendation of Officers, requires a specific and justified reason.

- 5.5 The majority of cases within the 'Campbell Properties' and 'Lane' appeals, and those since reviewed by Officers as demonstrated elsewhere on this agenda, involve a change of use from 6 occupants to 7 occupants. Members have previously raised concerns that an increase in occupation has an impact on areas of planning relevance, namely amenity, waste water/nitrates, parking and waste/recycling. Within the 'Lane appeal decisions' the Inspector criticised the Council for failing to provide a sound, substantive and defensible basis for their decision making and felt the assertions made in those decisions were vague and generalised. Consequently Officers have carefully assessed the current application proposal to ensure that the judgement to be applied is specific to the facts and site in question and precise in their formulation.
- 5.6 The change in occupancy in an HMO from 6 people to 7 people is to increase the occupants by 17%. Ostensibly the resultant impact from this additional occupation would proportionately increase by the same percentage. However in reality each case would likely express this change in different ways. The assessment of that change can sensibly be done with reference to headings highlighted by the Planning Committee in similar applications. For example it is Officers conclusion that an increase of 1 additional occupant (+17%) cannot be evidenced to have any demonstrable impact on amenity when viewed externally. The total number of movements to and from the property, the likelihood of noise and anti-social behaviour and the day to day activity within the dwelling, while increasing by 17% would be arguably objectively imperceptible to neighbours and passers-by. Similarly the increase in waste water from an additional occupant would have an insignificant impact on the water management and disposal. While, in combination with all other increases in waste water within the catchment of the relevant Waste Water Treatment Works (Budds Farm), this can be considered to have a cumulative impact on eutrophication within the Solent Waters that precautionary and cumulative assessment is relevant only in respect of the specific Habitats Regulation assessment which is only engaged if a need for planning permission is established. Consequently the impact on waste water and nitrates from adding a single additional occupant to an HMO is not considered to demonstrate a material change in the use of that dwelling. When looking at parking implications it becomes even more challenging as the parking demand/stress resulting from occupants varies not just on the number of individuals but on accessibility to alternative modes of transport, personal mobility issues, personal economic circumstances and individual choice. When considering all those factors, especially noting that occupants of HMOs are likely to be in the lowest economic bracket for private rented accommodation, it is again considered unlikely that the minimal, 17%, increase in occupancy would result in a demonstrable implication for parking availability within any given area. In respect of waste and recycling it is however more straightforward. Councils have a good understanding of the demands of different household types and sizes in respect of waste capacity as this is used to provide bins for both recycling and residual waste and to consequently manage the amount of waste collected. In Portsmouth a 6 bed HMO is provided with 720 litres of bin capacity, usually in the form of a single 360l bin for recycling and a single 360l bin for residual waste. More, but smaller bins equivalent to the same capacity can of course

be provided as an alternative if the nature of the property requires it. A 7 bed HMO is provided with exactly the same 720 litre amount. Consequently while an individual bin may be more full on collection day there is considered to be no likely difference between a 6 and 7 bed HMO in respect of waste that would be externally apparent.

- 5.7 It is therefore necessary to compare these factors, which have lead Officers to conclude many changes in occupancy from 6 to 7 do not constitute a material change of use, to the facts of the current application, which seeks a change in occupancy from 5 occupants to 8 occupants.
- 5.8 When considering the impact on amenity it is noted that the change in occupation will increase 51%, from 5 to 8, compared to the insignificantly assessed 17%. However, there is no evidence that a more intensely used HMO is likely to generate more complaints, regarding noise and anti-social behaviour, than a smaller HMO. This point was examined in the 'Campbell Properties' appeal inquiry. It is of course also to be noted that such amenity impacts will be far more greatly influenced by the nature of individual tenants than the nature/scale of the property albeit the two factors cannot be entirely disentangled. Overall however and notwithstanding that the occupation is proposed to increase by 51% Officers are of the opinion that there is no specific evidence or likelihood that this increase will lead to a significant difference in the character or impact of the use in respect of amenity.
- 5.9 As noted above while the increase in waste water, and nitrates, will have a directly proportionate increase based in the additional occupants the relevance of this only occurs if planning permission is found to be needed and consequently it provides little direct evidence as to that question itself.
- 5.10 Parking demand/stress is however considered to be more likely in the application scenario, increasing occupancy from 5 to 8. While adding a single occupant, likely on lower income is considered very unlikely to have a significant impact on the parking demands in an area, the addition of 3 occupants, the equivalent occupation of an average family dwelling, is considered to be far more likely to result in an increased likelihood of parking stress. It is noted that the application site is located, within easy walking distance of facilities and bus routes, however the 51% increase in occupation is, notwithstanding this, considered to lead to a likely associated increase in car ownership and associated identifiable impact on parking amenity and availability.
- 5.11 In respect waste and recycling, as noted above, an increase in a single occupant is unlikely to result in any demonstrable, externally identifiable impacts, as it would not normally require any addition bin capacity to be provided. However, in the application scenario, increasing from 5 occupants to 8 the Council's Waste Service Team have been consulted on the application and they have confirmed that the required capacity would have to be significantly increased. A 5 bed HMO has a capacity need of 480 litres (normally 1 x 240l bin for recycling, and 1 x 240l bin for residual waste). A 8 bed HMO has a capacity need of 720 litres (normally 1 x 360l bin for recycling, and 1 x 360l bin plus). This is a 50% increase in capacity. The slight disproportionality of this increase is due to the availability of different wheelie-bin sizes.
- 5.12 It is therefore considered that the given the above, the change of use in this instance is fundamentally different to the existing 4 bed HMO use and is distinguishable to the above appeals and distinct from previous applications presented to the Planning Committee. The proposal is considered to be a material change of use constituting



development requiring planning permission and does not benefit from a fall-back position to the contrary. It falls, therefore, to be assessed against the policy of the Local Plan.

5.13 Principle

5.14 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 housing mix of certain communities. Two of the key matters of principles 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.

5.15 In this case the application site is already in lawful use as an HMO and the application has been made to recognise the intention to increase its occupation by 3 occupants. As such the application is not considered, on its individual facts to create any material impact on the balance of the community in the area. 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. As the minor increase in occupancy does not change this mix of dwellings the proposal has no impact on this guidance. For reference, it can be noted however that the relevant 50m radius area is currently made up of 34 HMOs out of 74 properties, a percentage of 45.9%. This proposal of course has no effect on that headline percentage. The application does of course increase the number of HMO residents in an area that would already be considered to have a concentration of HMOs. A judgement needs to be made whether the addition of 3 HMO residents into this existing imbalanced community would result in a potential harm to the amenity of that community, as guided by paragraph 2.3 of the Council's SPD for HMOs. The assessment of that harm is considered below. The HMO SPD also described a number of circumstances where new HMOs are considered not desirable, such as where they 'sandwich' single household dwellings between HMOs or create a number of HMOs next to each other. As this proposal does not involve the creation of a new HMO these considerations are not brought into effect.

5.16 The HMO use of this site currently benefits from a Licence granted by Portsmouth City Council to operate as an HMO with up to 8 occupants. This licence was granted on 27/10/2022 expiring on 27/10/2027.

5.17 The repurposing of internal rooms to accommodate the additional occupants within this proposal will have an effect on the ratio of communal/amenity space compared to private bedroom space available internally for future occupants. While this matter will also be considered as part of the necessary licensing of the HMO by the Private Sector Housing team under the Housing Act, the HMO SPD identifies this as a consideration as part of the assessment of whether a good standard of living environment is provided for future residents as required by Local Plan Policy PCS23. Under the current proposal the following room sizes would be provided, as compared to the minimum size prescribed in the Council's adopted guidance:

Room	Area Provided	Size provided for in Guidance
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Bedroom 1 (Ground floor)	11.76m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 2 (Ground floor)	11.04m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 3 (First floor)	10.23m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 4 (First floor)	10.03m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 5 (First floor)	10.05m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 6 (First floor)	10.73m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 7 (Second floor)	12.49m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 8 (Second floor)	11.59m <sup>2</sup>	6.51m <sup>2</sup>
Combined Kitchen/Dining area (Ground floor)	27.09m <sup>2</sup>	34m <sup>2</sup> /22.5
Ensuite bathroom 1 (Ground floor)	2.88m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 2 (Ground floor)	2.76m <sup>2</sup>	2.74m <sup>2</sup>
W/C (First floor)	1.77m <sup>2</sup>	1.17m <sup>2</sup>
W/C/Shower (First floor)	3.75m <sup>2</sup>	1.74m <sup>2</sup>
Ensuite bathroom 7 (Second floor)	3.14m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 8 (Second floor)	3.07m <sup>2</sup>	2.74m <sup>2</sup>

**Table 1 - HMO SPD (Oct 2019) compliance**



**Figures 2 - Existing/Proposed Plans**

5.18 As is shown in the table above, the proposal results in an internal layout, which due to the size of the communal living space does not meet the guidance provided to describe a satisfactory standard of living environment (34m<sup>2</sup>). However, the HMO SPD, at para 2.6, advises that more detailed guidance, beyond these headline requirements should be referred to within the Councils 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<sup>2</sup> and the accommodation is otherwise acceptable as communal space. 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.

5.19 Amenity and Parking

5.20 The proposal would increase the occupancy of the existing HMO by 3 occupants. While this would have a proportionate increase in activity within and coming and going from the property this small increase in the number of residents is not considered likely to have any demonstrable adverse effect on residential amenity for neighbours of the surrounding area.

5.21 While the increase of occupants is considered to have some impact on the parking need and thus parking availability in the wider area, it is noted that the Council's adopted Parking Standards, within the associated SPD has the same expectation for the number of parking spaces, 2 spaces per dwelling, for any scale of HMO with 4 or more bedrooms. On balance Officers are satisfied that the minor increase in likelihood of parking demand while identifiable is unlikely to be so significantly harmful to parking amenity and availability to warrant refusal of planning permission.

5.22 Housing Land Supply

5.23 The Committee's attention is drawn to the current 5 year housing land supply position within Portsmouth. In any planning application, the decision-maker will need to 'balance' any harms identified due the development against any benefits also arising. Principally, for this HMO application, the benefits are to the provision of housing through the provision of additional bedspace of occupation within the HMO. While this is a small contribution to the overall housing stock, the Council currently is unable to identify a 'five year supply' of housing, with only a 2.9 year supply currently identifiable. In this circumstance, the Council is directed to consider that the policies which are most important to determinations associated with housing provision within the Local Plan are out of date. The consequence of this is that decision takers are directed to apply a tilted balance to determinations so that permission is only withheld when the adverse impacts '*...significantly and demonstrably outweigh the benefits...*'. Any harm associated with the increase in occupancy in this area are considered to be insignificant and therefore fall short of being able to significantly and demonstrably outweigh even the small benefit to the city's housing stock of the provision of bedspaces, should such assessment be considered necessary.

5.24 Impact on Special Protection Areas

5.25 As the increase in occupancy from a 5 person HMO to 8 persons HMO is considered to warrant planning permission the provisions of the Habitat Regulations are engaged and mitigation for increased Nitrate and Phosphate Output into the Solent and Recreational Disturbance to the SPA is required. This can be secured through a s111 agreement, which the applicant has agreed to, and is in accordance with the advice from Natural England.

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

- 5.27 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.
- 5.28 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.

## **6.0 CONCLUSION**

- 6.1 Having assessed the likely significant difference in the nature and implications of the change in occupation it is considered that the change in use is material and requires planning permission. Having regard to all material planning considerations, including the current 5-year land supply within the City and the representations received, 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) (2023).

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

- (a) satisfactory completion of a Legal Agreement necessary to secure the mitigation of the impact of the proposed development on Solent Special Protection Areas (recreational disturbance and nitrates) by securing the payment of a financial contribution.

**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 completed within three months 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 - Drawing numbers: Location Plan - Location Plan - 59 Manners Road and PG.6196.4.

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.

### **Water Efficiency**

4) 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.

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# Agenda Item 10

23/01065/FUL

WARD:NELSON

75 WADHAM ROAD PORTSMOUTH PO2 9ED

CHANGE OF USE FROM 5-BED/5-PERSON HOUSE IN MULTIPLE OCCUPATION TO 8-BED/8-PERSON HOUSE IN MULTIPLE OCCUPATION

[23/01065/FUL | CHANGE OF USE FROM 5-BED/5-PERSON HOUSE IN MULTIPLE OCCUPATION TO 8-BED/8-PERSON HOUSE IN MULTIPLE OCCUPATION | 75 WADHAM ROAD PORTSMOUTH PO2 9ED](#)

**Application Submitted By:**

Mrs Carianne Wells  
Applecore PDM Ltd

**On behalf of:**

Cook  
Mad Jacks Developments Ltd

**RDD:** 18th August 2023

**LDD:** 13th October 2023

## 1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee due to the number of objections received.

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

- Principle of Development including compliance with policy
- Impacts on Amenity including parking
- Other material considerations

## 2.0 SITE AND SURROUNDINGS

2.1 The application site is a two-storey terraced dwelling in a residential area.

## 3.0 THE PROPOSAL

3.1 The Applicant has sought planning permission for the change of use of the dwelling from the current lawful use of as a HMO with up to six individuals living together to allow up to 8 individuals to live together as an HMO. This change in occupancy will involve the repurposing of internal rooms but no external operational development forms part of this application.

## 4.0 PLANNING HISTORY

4.1 The property regularised the use as a small HMO through the grant of a lawful development certificate '23/00552/CPE', issued 29<sup>th</sup> June 2023. A HMO Licence was also granted on the 1<sup>st</sup> November 2018.

## 5.0 POLICY CONTEXT

5.1 In addition to the aims and objectives of the National Planning Policy Framework (2021), the relevant policies within the Portsmouth Plan (2012) would include: PCS17 (Transport), PCS20 (Houses in Multiple Occupation and PCS23 (Design and Conservation).

- 5.2 Guidance for the assessment of applications that is relevant to the application includes The Parking Standards and Transport Assessments Supplementary Planning Document (2014), The Technical Housing Standards - nationally described space standards (2015), The Solent Recreation Mitigation Strategy (2017), The Updated Nutrient Neutral Mitigation Strategy (2022), and The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD')

## **6.0 CONSULTATIONS**

- 6.1 Private Sector Housing: The City Council Private Sector Housing team advise that this property would require to be licenced under Part 2, Housing Act 2004.

## **7.0 REPRESENTATIONS**

- 7.1 12 representations objecting to the application have been received.
- 7.2 These comments raised a variety of issues including: neighbouring amenity, overcrowding, parking, pressure on local services, pressure on drainage, fire hazards, impacts on community character, property values, density of housing.

## **8.0 COMMENT**

- 8.1 The main issues to consider in the determination of this application is whether the proposal is acceptable in principle.

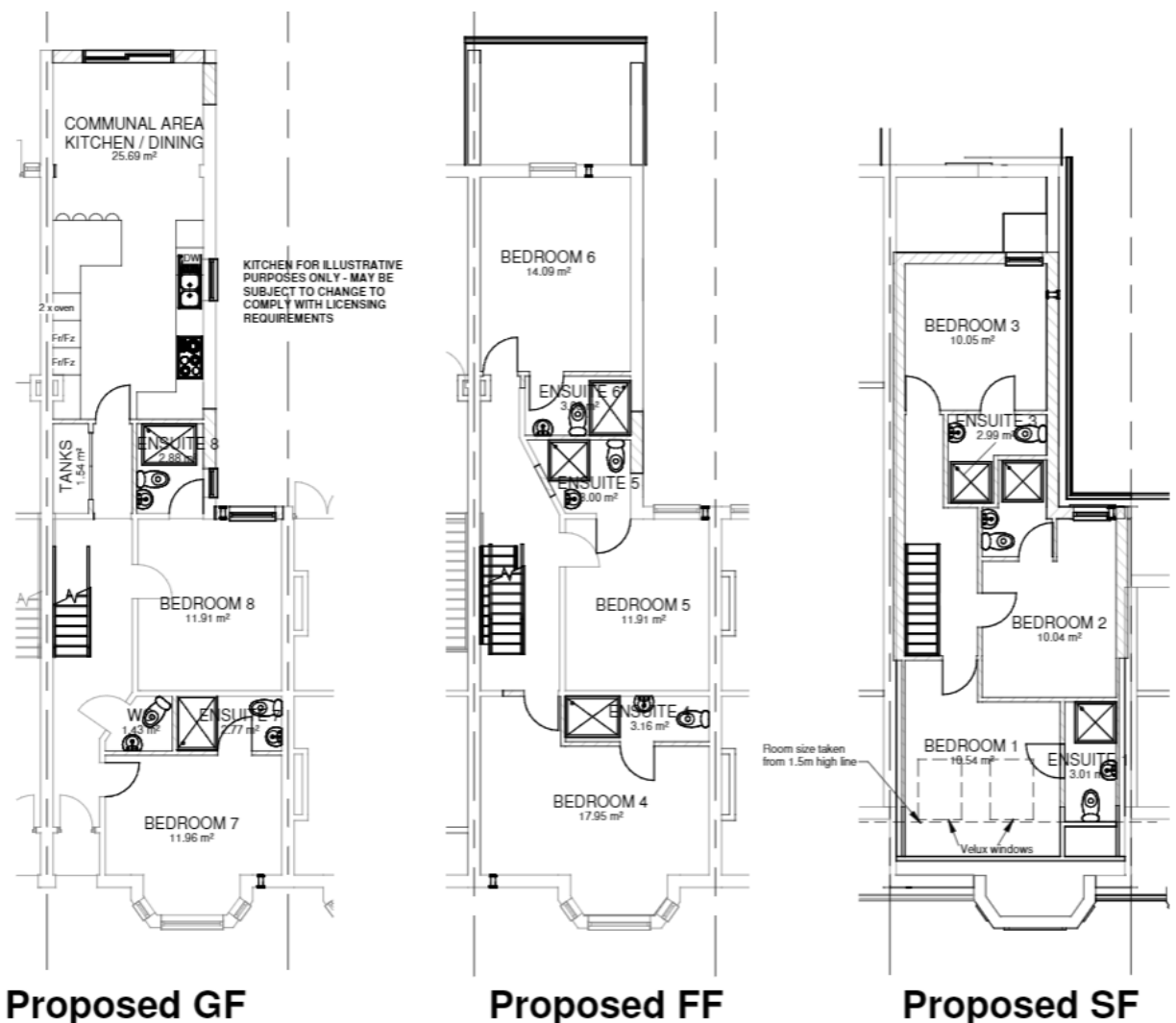
### 9.0 Principle

- 9.1 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 housing mix of certain communities. Two of the key matters of principles 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.
- 9.2 In this case the application site is already in lawful use as an HMO and the application has been made to recognise the intention to increase its occupation by 3 occupants. As such the application is not considered, on its individual facts to create any material impact on the balance of the community in the area. 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. As the minor increase in occupancy does not change this mix of dwellings the proposal has no impact on this guidance. For reference, it can be noted however that the relevant 50m radius area is currently made up of 6 HMOs out of 64 properties, a percentage of 9.3%. This proposal of course has no effect on that percentage and the small increase of HMO dwelling occupants in this area is not considered to create any demonstrable imbalance or adverse implications. The HMO SPD also described a number of circumstances where new HMOs are considered not desirable, such as where they 'sandwich' single household dwellings between HMOs or create a number of HMOs next to each other. As this proposal does not involve the creation of a new HMO these considerations are not brought into effect.
- 9.3 The HMO use of this site currently benefits from a Licence granted by Portsmouth City Council to operate as an HMO with up to 5 occupants. This licence was granted on 1<sup>st</sup> November 2018.



9.4 The repurposing of internal rooms to accommodate the additional occupants within this proposal will have an effect on the ratio of communal/amenity space compared to private bedroom space available internally for future occupants. While this matter will also be considered as part of the necessary licensing of the HMO by the Private Sector Housing team under the Housing Act, the HMO SPD identifies this as a consideration as part of the assessment of whether a good standard of living environment is provided for future residents as required by Local Plan Policy PCS23. Under the current proposal the following room sizes would be provided, as compared to the minimum size prescribed in the Council's adopted guidance:

Room	Area Provided:	Size provided for in Guidance:
Bedroom 1	10.54m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 2	10.04m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 3	10.05m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 4	17.95m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 5	11.91m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 6	14.09m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 7	11.96m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 8	11.91m <sup>2</sup>	6.51m <sup>2</sup>
Combined Living Space	25.69m <sup>2</sup>	22.52m <sup>2</sup> (all rooms are above 10m <sup>2</sup> )
Bathroom 1	1.43m <sup>2</sup>	3.74m <sup>2</sup>



9.5 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 area. 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<sup>2</sup> and the accommodation is otherwise acceptable as communal space. 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.

#### 10.0 Amenity and Parking

10.1 The proposal would increase the occupancy of the existing HMO by 3 occupants. While this would have a proportionate increase in activity within and coming and going from the property this small increase in the number of residents is not considered likely to have any demonstrable adverse effect on residential amenity for neighbours of the surrounding area.

10.2 Similarly the minor increase of occupants is not considered to have a demonstrable impact on the parking need and thus parking availability in the wider area. It is noted that the Council's adopted Parking Standards, within the associated SPD has the same expectation for the number of parking spaces, 2 spaces per dwelling, for any scale of HMO with 4 or more bedrooms. Consequently, the proposal remains in accordance with the Council's adopted guidance on parking provision.

#### 11.0 Other Material Considerations

11.1 Whether or not the change in occupancy of an HMO amounts to a 'material change of use' resulting in development requiring planning permission is a matter of planning judgement based on the specific circumstance of each case. That judgement will need to assess whether there is some significant difference in the character of the activities from what has gone on previously as a matter of fact and degree. As seen in other applications within this and previous agendas, Officers' view, as demonstrated by the 'Campbell properties' and the 'Lane' appeal decisions is that some changes of use do not necessarily represent development requiring Planning Permission. Therefore, in other cases, the Applicant would benefit from a 'fall-back' position of not requiring Planning Permission. A large number of applications for change in the occupation of a dwelling from a 6 person HMO to a 7 or 8 person HMO have been assessed and, on their own facts Officers have concluded that they do not constitute a material change of use. It can be noted that the Planning Committee has come to a different conclusion.

11.2 In this instance a different circumstance falls to be considered when compared to these other cases. The last use of the application property was as a 5 person HMO. The application seeks occupation of the property as an 8 person HMO. This would result in a more significant change in usage which in the Officers view would represent a material change in the use of the property and therefore would require Planning Permission. This is seen through the likely difference in impact that the additional occupants would represent and which is considered to make a significant difference in the character, and scale of the activities resulting from the proposed use. Other, nominally similar, applications changing the occupation from 6 occupants to 7 seven occupants have been found in the opinion of officers to result in insufficiently change to be considered a material change of use. The same conclusion, in material similar circumstances as noted above, has been drawn at six other sites by Inspectors in the 'Campbell Properties' and 'Lane' appeals. Those appeals are material considerations and to draw a different

conclusion to that which they might superficially suggest, as is the recommendation of Officers, requires a specific and justified reason.

- 11.3 The majority of the cases within the 'Campbell Properties' and 'Lane' appeals, and those since reviewed by Officers as demonstrated elsewhere on this agenda, involve a change of use from 6 occupants to 7 occupants. Members have previously raised concerns that an increase in occupation has an impact on areas of planning relevance, namely amenity, waste water/nitrates, parking and waste/recycling. Within the 'Lane appeal decisions' the Inspector criticised the Council for failing to provide a sound, substantive and defensible basis for their decision making and felt the assertions made in those decisions were vague and generalised. Consequently, Officers have carefully assessed the current application proposal to ensure that the judgement to be applied is specific to the facts and site in question and precise in their formulation.
- 11.4 The change in occupancy in an HMO from 6 people to 7 people is to increase the occupants by 17%. Ostensibly the resultant impact from this additional occupation would proportionately increase by the same percentage. However, in reality each case would likely express this change in different ways. The assessment of that change can sensibly be done with reference to headings highlighted by the Planning Committee in similar applications. For example, it is Officers conclusion that an increase of 1 additional occupant (+17%) cannot be evidenced to have any demonstrable impact on amenity when viewed externally. The total number of movements to and from the property, the likelihood of noise and anti-social behaviour and the day to day activity within the dwelling, while increasing by 17% would be arguably objectively imperceptible to neighbours and passers-by. Similarly the increase in waste water from an additional occupant would have an insignificant impact on the water management and disposal. While, in combination with all other increases in waste water within the catchment of the relevant Waste Water Treatment Works (Budds Farm), this can be considered to have a cumulative impact on eutrophication within the Solent Waters that precautionary and cumulative assessment is relevant only in respect of the specific Habitats Regulation assessment which is only engaged if a need for planning permission is established. Consequently the impact on waste water and nitrates from adding a single additional occupant to an HMO is not considered to demonstrate a material change in the use of that dwelling. When looking at parking implications it becomes even more challenging as the parking demand/stress resulting from occupants varies not just on the number of individuals but on accessibility to alternative modes of transport, personal mobility issues, personal economic circumstances and individual choice. When considering all those factors, especially noting that occupants of HMOs are likely to be in the lowest economic bracket for private rented accommodation, it is again considered unlikely that the minimal, 17%, increase in occupancy would result in a demonstrable implication for parking availability within any given area. In respect of waste and recycling it is however more straightforward. Councils have a good understanding of the demands of different household types and sizes in respect of waste capacity as this is used to provide bins for both recycling and residual waste and to consequently manage the amount of waste collected. In Portsmouth a 6 bed HMO is provided with 720 litres of bin capacity, usually in the form of a single 360l bin for recycling and a single 360l bin for residual waste. More, but smaller bins equivalent to the same capacity can of course be provided as an alternative if the nature of the property requires it. A 7 bed HMO is provided with exactly the same 720 litre amount. Consequently while an individual bin may be more full on collection day there is considered to be no likely difference between a 6 and 7 bed HMO in respect of waste that would be externally apparent.
- 11.5 It is therefore necessary to compare these factors, which have lead Officers to conclude many changes in occupancy from 6 to 7 do not constitute a material change of use, to the facts of the current application, which seeks a change in occupancy from 5 occupants to 8 occupants.

- 11.6 When considering the impact on amenity it is noted that the change in occupation will increase 60%, from 5 to 8, compared to the insignificantly assessed 17%. However there is no evidence that a more intensely used HMO is likely to generate more complaints, regarding noise and anti-social behaviour, than a smaller HMO. This point was examined in the 'Campbell Properties' appeal inquiry. It is of course also to be noted that such amenity impacts will be far more greatly influenced by the nature of individual tenants than the nature/scale of the property albeit the two factors cannot be entirely disentangled. Overall however and notwithstanding that the occupation is proposed to increase by 60% Officers are of the opinion that there is no specific evidence or likelihood that this increase will lead to a significant difference in the character or impact of the use in respect of amenity.
- 11.7 As noted above while the increase in waste water, and nitrates, will have a directly proportionate increase based in the additional occupants the relevance of this only occurs if planning permission is found to be needed and consequently it provides little direct evidence as to that question itself.
- 11.8 Parking demand/stress is however considered to be more likely in the application scenario, increasing occupancy from 5 to 8. While adding a single occupant, likely on lower income is considered very unlikely to have a significant impact on the parking demands in an area, the addition of 3 occupants, the equivalent occupation of an average family dwelling, is considered to be far more likely to result in an increased likelihood of parking stress. It is noted that the application site is located, within easy walking distance of facilities and bus routes at the North End District Centre, however the 60% increase in occupation is, notwithstanding this, considered to lead to a likely associated increase in car ownership and associated identifiable impact on parking amenity and availability
- 11.9 In respect of waste and recycling, as noted above, an increase in a single occupant is unlikely to result in any demonstrable, externally identifiable impacts, as it would not normally require any addition bin capacity to be provided. However in the application scenario, increasing from 5 occupants to 8 the Council's Waste Service Team have been consulted on the application and they have confirmed that the required capacity would have to be significantly increased. A 5 bed HMO has a capacity need of 480 litres (normally 1 x 240l bin for recycling, and 1 x 240l bin for residual waste). A 8 bed HMO has a capacity need of 720 litres (normally 1 x 360l bin for recycling, and 1 x 360l bin plus). This is a 50% increase in capacity. The slight disproportionality of this increase is due to the availability of different wheelie-bin sizes
- 11.10 It is therefore considered that the given the above, the change of use in this instance is fundamentally different to the existing 5 bed HMO use and is distinguishable to the above appeals and distinct from previous applications presented to the Planning Committee. The proposal is considered to be a material change of use constituting development requiring planning permission and does not benefit from a fall-back position to the contrary. It falls therefore to be assessed against the policy of the Local Plan.
- 11.11 A number of objections were raised by neighbouring dwellings in relation to the provision of parking on Wadham Road and surrounding areas. On site visit, the street was seen to be of medium capacity, however it is noted that the time of both site visits was not before 8am or after 5pm when parking is likely to be at capacity.
- 11.12 Impact on Special Protection Areas
- 11.13 The application is for a Class C4 dwelling to a Sui Generis dwelling. The increase in occupancy would be 3 persons, giving a nitrate value of (3/2.4 x 0.87kg) £1088 for mitigation. There should be a water efficiency condition added to the permission. Bird Aware SPA mitigation will be the relevant figure for an increase of 3 bedrooms.

## 12.0 CONCLUSION

- 12.1 Having assessed the likely significant difference in the nature and implications of the change in occupation it is considered that the change in use is material and requires planning permission. Having regard to all material planning considerations, including the current 5 year land supply within the City and the representations received, 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) (2023).

### RECOMMENDATION:

**RECOMMENDATION I** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to grant Conditional Permission subject to completion of a Legal Agreement to secure the following:

- i. To mitigation of the development with respect to the recreational disturbance to the Special Protection Areas.
- ii. Nitrate neutrality mitigation for the Special protection Areas

**RECOMMENDATION II** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary, and

**RECOMMENDATION III** - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to refuse planning permission if a Legal Agreement to secure the affordable housing, and the mitigation of the development with respect to the Special Protection Areas pursuant to Recommendation I has not been completed within three months of the date of this resolution.

### Conditions:

#### 1 Time Limit

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

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

#### 2 Approved Plan

Plans Listing: 'Sui Gen Plan' PG8050 23 05; Received 17<sup>th</sup> August 2023. 'Location Plan' Received 17<sup>th</sup> August 2023.

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

#### 3. Water Efficiency:

Unless otherwise agreed in writing by the Local Planning Authority, the dwelling hereby permitted shall not be occupied until written documentary evidence has been submitted to, and approved in writing by the Local Planning Authority demonstrating that each of the dwellings has: Achieved maximum water use of 110 litres per person per day as defined in paragraph 36(2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a post-construction stage water efficiency calculator.

Reason: To reduce water usage in the interests of sustainable development and to comply with Policy PCS15 of the Portsmouth Plan

**4 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.

**5. External Works:**

Prior to the occupation of the development hereby approved, the extensions as shown on the approved plans shall be completed.

Reason: To ensure that an adequate standard of accommodation is provided to comply with Policy PCS23 of the Portsmouth Plan.

# Agenda Item 11

23/00667/FUL

WARD: COPNOR

80 CHICHESTER ROAD, PORTSMOUTH, PO2 0AH.

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

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=RFQI0GMOL7M00](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=RFQI0GMOL7M00)

**Application Submitted By:**

Mrs Carianne Wells of Applecore PDM Ltd.

**On behalf of:**

DJFX Properties Ltd

**RDD:** 12<sup>th</sup> June 2023

**LDD:** 3<sup>rd</sup> August 2023

## 1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee due to an objection (and Call-in) from Councillor Wemyss and Councillor Swann.

1.2 The main issues for consideration in the determination of the application/appeal are considered to be as follows:

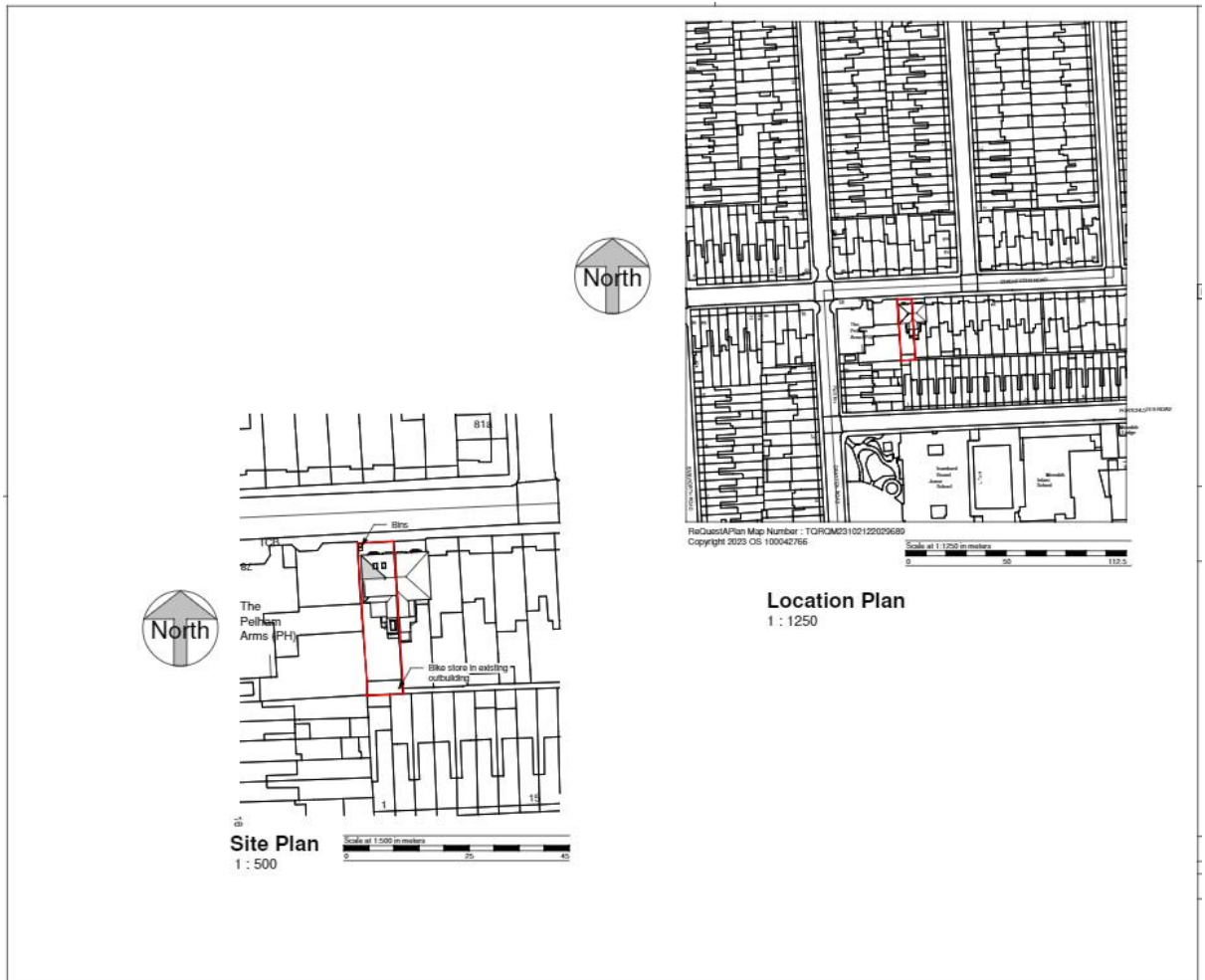
- The principle of development;
- Standard of accommodation;
- Parking;
- Waste;
- Amenity impacts upon neighbouring residents;
- Impact upon the Solent Protection Areas; and
- Any other matters raised.

## 2.0 SITE AND SURROUNDINGS

2.1 The application relates to a two-storey, mid-terrace dwellinghouse (Class C3) located on the south side of Chichester Road as shown in **Figure 1** below. The dwellinghouse is set back from the road by a small front forecourt and to the rear of the property is an enclosed garden and a rear outbuilding. The existing layout comprises of a lounge, kitchen, dining, and bathroom at ground floor level; three bedrooms and a bathroom at first floor level.

2.2 The application site adjoins a Public House within a predominantly residential area characterised by rows of similar two-storey terraced properties with a similar visual style.

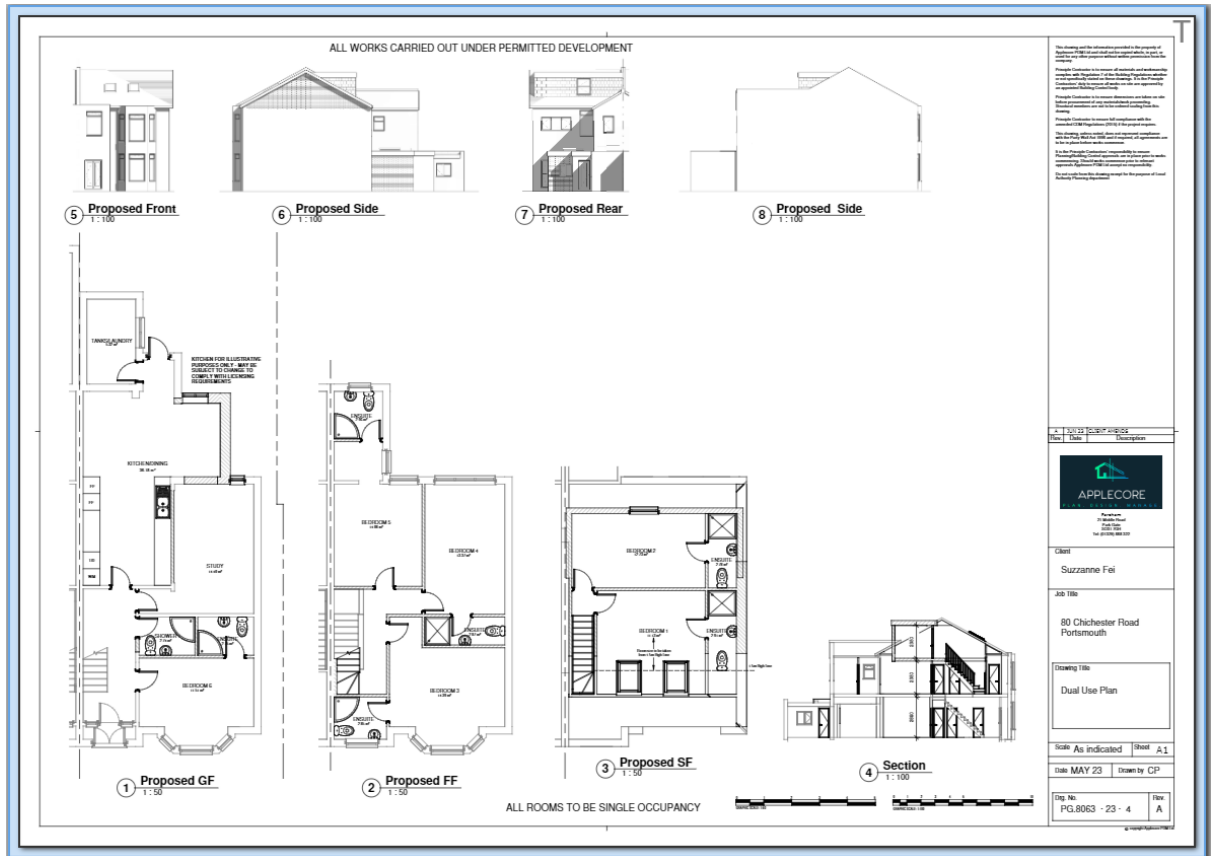
*Figure 1 - Site Location Plan*



### 3.0 THE PROPOSAL

- 3.1 Planning permission is sought for the change of use of the property from a dwellinghouse (Class C3) to a dwellinghouse (Class C3) or House of Multiple Occupation (HMO) (Class C4) use with up to six individuals living together.
- 3.2 The proposed internal accommodation, as shown in **Figure 2** below, comprises the following:
  - Ground Floor - One bedroom (with a shower, toilet and handbasin ensuite), Study, Kitchen/Dining, Communal Shower cum W/C and handbasin;
  - First Floor - Three bedrooms (each with a shower, toilet and handbasin ensuite); and
  - Second Floor - Two bedrooms (each with a shower, toilet and handbasin ensuite).
- 3.3 The applicants are seeking to construct rear dormer extension within the main roof and insert two rooflights within the front roofslope, as shown in the drawing below, to facilitate the enlargement of the property. The roof alterations can be completed under permitted development rights regardless of whether the property is in Class C3 or C4 use.
- 3.4 Given that the roof alterations are permitted development, it is not possible to consider the design or amenity impact of the rear dormer as part of this application. There would be no other external operational development forming part of this application. The cycle and bin store would be within the rear garden shed.





**Figures 2 - Existing & Proposed Plans**

#### 4.0 PLANNING HISTORY

4.1 None relevant.

#### 5.0 POLICY CONTEXT

5.1 Portsmouth Plan (2012)

5.2 In addition to the aims and objectives of the National Planning Policy Framework (2023), due weight has been given to the relevant policies within the Portsmouth Plan (2012), which include:

- PCS17 (Transport)
- PCS20 (Houses in Multiple Occupation)
- PCS23 (Design and Conservation).

5.3 Other Guidance

5.4 Guidance for the assessment of applications that is relevant to the application includes:

- National Planning Practice (revised 2023)
- The Parking Standards and Transport Assessments Supplementary Planning Document (2014)

- The Solent Recreation Mitigation Strategy (2017)
- The Interim Nutrient Neutral Mitigation Strategy (2022)
- The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD').

## **6.0 CONSULTATIONS**

- 6.1 Private Sector Housing - Based on the layout and sizes provided there are no adverse comments to be made. This property would require to be licenced under Part 2, Housing Act 2004.
- 6.2 Highways Engineer - no objection.
- 6.3 Chichester Road is a residential road with bus stops and amenities in the vicinity along Copnor Road and Kingston Road. The proposed application seeks to convert an existing 3 bedroom residential unit to a 6 bedroom HMO. Given the additional of up to four bedrooms, there is therefore the potential for increased instances of residents driving around the area hunting for a parking space, however this an issue of residential amenity for you to consider in your determination of the application. It is not considered that size of development would lead to a material impact to the function of the highway.
- 6.4 The proposal does indicate secure cycle storage spaces within the rear garden and therefore this storage should be implemented prior to occupation of the new residential units.
- 6.5 Waste Reduction Initiatives Team Leader - No objection
- 6.6 There appears to be enough room in the forecourt for the required bins needed for a 6 bed HMO. The applicant will need to purchase 1 x 360 litre refuse and 1 x 360 litre recycling bins directly from Waste Management at Portsmouth City Council prior to anyone moving in, they will also need to inform us at least 3 weeks prior to anyone moving in so records can be updated and ensure bins are in stock.

## **7.0 REPRESENTATIONS**

- 7.1 4 representations have been received from 4 neighbouring properties, objecting to the proposed development, including one from Councillor Wemyss and one from Councillor Swann.
- 7.2 The above representations in objection have raised the following concerns:
- a) More people to be crammed into houses not designed for this volume of occupancy;
  - b) Strain on car parking and affordable family homes;
  - c) Strain on already stretched local services;

## **8.0 COMMENT**

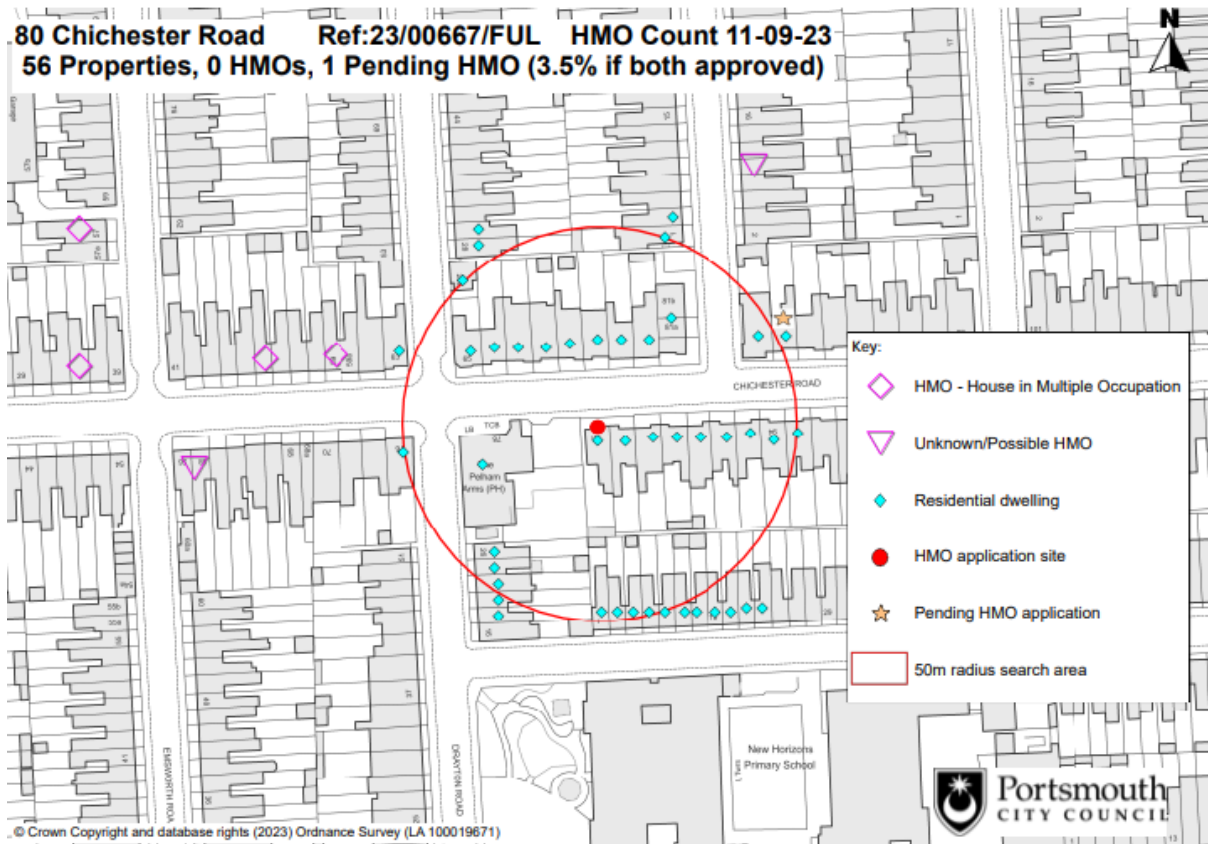
- 8.1 The main determining issues for this application relate to the following:
- The principle of Development;
  - The standard of accommodation;
  - Impact upon amenity neighbouring residents;
  - Parking;

- 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). 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 56 properties within a 50-metre radius of the application site, there is only 2 confirmed HMO (Class C4) at No. 85 Chichester Road and the application property itself 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 the Case Officer. Including the application property and the HMO at No. 85 Chichester Road, the proposal would bring the percentage of HMOs within the area up to 3.5%. This would be lower than the 10% threshold above which an area is considered to be imbalanced and in conflict with Policy PCS20.
- 8.7 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.

**Figure 4 - Existing HMOs within 50m of the application site**



8.8 Having regard to the above, the proposal would comply with the aims and objectives of Policies PCS19 and PCS20 of the Portsmouth Plan (2012).

8.9 Standard of accommodation

8.10 The application seeks, in addition to a C3 use, the opportunity to use the property as a C4 HMO which would, in planning terms, technically allow occupation by up to six individuals. 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 (Second floor)	11.13m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 2 (Second floor)	12.73m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 3 (first floor)	14.39m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 4 (first floor)	13.37m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 5 (first floor)	14.08m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 6 (ground floor)	11.51m <sup>2</sup>	6.51m <sup>2</sup>
Communal Kitchen/Dining area (ground floor)	36.18m <sup>2</sup>	34m <sup>2</sup>
Ensuite bathroom 1 (second floor)	2.91m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 2 (second floor)	2.78m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 3 (first floor)	2.85m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 4 (first floor)	2.87m <sup>2</sup>	2.74m <sup>2</sup>

Ensuite bathroom 5 (first floor)	2.96m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 6 (ground floor)	2.75m <sup>2</sup>	2.74m <sup>2</sup>
W/C/Shower (ground floor)	2.74m <sup>2</sup>	1.17m <sup>2</sup>

**Table 1 - HMO SPD (Oct 2019) compliance**

- 8.11 There is ground floor Shower cum W/C proposed which meets the Council's standards. In addition, each of the bedrooms would be served by its own ensuite, and as such sanitary arrangements are considered to be acceptable.
- 8.12 All of the bedrooms and communal areas 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.
- 8.14 Impact on neighbouring living conditions
- 8.15 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 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.
- 8.16 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 one further HMO would not be significantly harmful.
- 8.17 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 slightly increased in the case of six individuals, 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 two within a 50m radius) would not have any demonstrable adverse impact to wider amenity.
- 8.18 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.
- 8.19 Highways/Parking
- 8.20 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. However, it should be noted that the expected level of parking demand for a Class C3 dwellinghouse with four or more bedrooms would also be 2 off-road spaces. The expected level of parking demand for a Class C3 dwellinghouse with three bedrooms (as existing) is 1.5 off-road spaces. The property has no off-street parking.

- 8.21 The C4 element of the proposal compared to the existing property only attracts an extra half a parking space, to which neither the Highways Officer nor Planning Officer raises an objection. 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.
- 8.22 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 outbuilding where secure cycle storage would be located. The requirement for cycle storage is recommended to be secured by condition.
- 8.23 Waste
- 8.24 The storage of refuse and recyclable materials would remain unchanged, being located in the forecourt area which is acceptable.
- 8.25 Impact on Special Protection Areas
- 8.26 Whilst it is acknowledged that there are ongoing issues around the nitrification of the Solent due to increased levels of runoff from residential development. The applicants above fall-back position would allow the occupation of the site without Planning Permission. As such it is considered that the proposal would not amount to development and therefore not have Likely Significant Effect on the Solent Special Protection Areas or result in an increased level of nitrate discharge.
- 8.27 Community Infrastructure Levy (CIL)
- 8.28 The development would not be CIL liable as there would be no increase in the Gross Internal Area of the application property.
- 8.29 Human Rights and the Public Sector Equality Duty ("PSED")
- 8.30 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.
- 8.31 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.

#### 8.32 Other Matters raised in the representations

8.33 Concerns have been raised by neighbouring residents regarding the pressure additional occupants would put on local services, and parking. 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 which could be occupied by a similar number of occupants.

### 9.0 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) (2021).

#### **RECOMMENDATION** Conditional Permission

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

- (a) Receipt of no objection from Natural England;
- (b) 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 completed within three months 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 - Drawing

numbers: PG.8063.23.01 (Existing Plans), PG.8063.23.04 Revision A (Proposed Floor and Elevation Plans) and PG.8063.23.05 (Block and Location Plan).

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 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.



# Agenda Item 12

23/00619/FUL

WARD: HILSEA

47 ORIEL ROAD PORTSMOUTH PO2 9EG

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

**Application Submitted By:**

Mr Kercher  
incollective.works

**On behalf of:**

Symonds

**RDD:** 22nd May 2023

**LDD:** 24th August 2023

## 1.0 SUMMARY OF MAIN ISSUES

- 1.1 This application is brought before Planning Committee due to the number of objections received (ten).
- 1.2 The main issues for consideration in the determination of the application/appeal are as follows:
  - The principle of development;
  - Standard of accommodation;
  - Parking;
  - Waste;
  - Amenity impacts upon neighbouring residents;
  - Impact upon the Solent Protection Areas; and
  - Any other raised matters.

## 2.0 SITE AND SURROUNDINGS

- 2.1 The application relates to a two-storey, mid-terrace dwellinghouse (Class C3) located on the southern side of Oriel Road as shown in **Figure 1** below. The dwellinghouse is set back from the road by a small front forecourt and to the rear of the property is an enclosed garden. The existing layout comprises of a front room, lounge, kitchen/dining room, at ground floor level; two bedrooms, a spare room and a bathroom at first floor level.
- 2.2 The application site is within a predominantly residential area, there are a variety of styles of properties in the area which are predominantly two-storey.



**Figure 1 - Site Location Plan**

### 3.0 THE PROPOSAL

- 3.1 Planning permission is sought for the change of use of the property from a dwellinghouse (Class C3) to a dwellinghouse (Class C3) or House of Multiple Occupation (HMO) (Class C4) use with up to six individuals living together.
- 3.2 The proposed internal accommodation, as shown in **Figure 4** below, comprises the following:
  - Ground Floor - Living room; Kitchen/Dining room; WC/Bathroom
  - First Floor - Three bedrooms and 1 bathroom
- 3.3 The Applicant intends to construct a single storey rear extension, a small rear/side extension, a rear dormer extension within the main roof and insert three rooflights within the front roof slope under permitted development, as shown below in the drawing below, to facilitate the enlargement of the property before undertaking the proposed change of use. The extensions and alterations can be completed under permitted development regardless of whether the property is in Class C3 or C4 use.
- 3.4 Given the external alterations and enlargements to the property are considered to be permitted development, it is not possible to consider the design or amenity impact of the rear dormer or the ground floor extensions as part of this application. There would be no external operational development forming part of this application with the exception of the

siting of a cycle store within the rear garden, details of which could be secured by planning condition.

- 3.5 Within the application the submitted plans have been amended to reduce the height of the rear dormer, to comply with Permitted Development. This has been achieved via changing the internal floor height. The heights within the floors have been measured and still provide appropriate head height (2.3m).

#### **4.0 PLANNING HISTORY**

- 4.1 23/00014/GPDC: Construction of single storey rear extension extending 6m beyond the rear wall, with a height of 2.8m to the eaves and a maximum height of 3m. Refused (14.04.2023) - reason: unneighbourly and overly dominant form of development, detrimental to the amenities of adjoining occupier by overbearing impact, sense of enclosure, overshadowing.

#### **5.0 POLICY CONTEXT**

##### 5.1 Portsmouth Plan (2012)

- 5.2 In addition to the aims and objectives of the National Planning Policy Framework (2021), due weight has been given to the relevant policies within the Portsmouth Plan (2012), which include:

- PCS17 (Transport)
- PCS20 (Houses in Multiple Occupation)
- PCS23 (Design and Conservation).

##### 5.3 Other Guidance

- 5.4 Guidance for the assessment of applications that is relevant to the application includes:

- National Planning Practice Guidance (revised 2021)
- The Parking Standards and Transport Assessments Supplementary Planning Document (2014)
- The Solent Recreation Mitigation Strategy (2017)
- The Updated Interim Nutrient Neutral Mitigation Strategy (2022)
- The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD').

#### **6.0 CONSULTATIONS**

- 6.1 Private Sector Housing - Based on the layout and sizes provided with this application this property would require to be licenced under Part 2, Housing Act 2004.
- 6.2 Highways Engineer - no objection.
- 6.3 Queens Road is a residential road with parking accommodated through unrestricted on street parking. The demand for parking on street appears high, particularly in the evenings and weekends.
- 6.4 No traffic assessment provided however given the small scale of the development, satisfied the proposal would not have a material impact upon the function of local highway network.
- 6.5 Portsmouth City Councils 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. However it is noted that the expected level of parking demand for a Class C3 dwellinghouse with four or more bedrooms would also be for 2 off-road spaces.

- 6.6 No parking survey information has been submitted to demonstrate on street capacity if additional demand resulting from the development can be accommodate within a 200m walking distance of the application site. Therefore, there is the potential for increased instances of residents driving around the area hunting for a parking space, although is an issue of residential amenity. This could justify a reason for refusal and consequently you should give this due weight in your determination of the planning application.
- 6.7 Furthermore, secure cycle storage has been indicated and a condition would be requested for this provision prior to occupation.

## 7.0 REPRESENTATIONS

- 7.1 14 representations have been received objecting to the proposed development.
- 7.2 The above representations of objection have raised the following concerns:
- a) Parking
  - b) Noise
  - c) Sewer and drainage issues
  - d) Disruption
  - e) Overdevelopment
  - f) Detrimental effect on living conditions/ effects on health and wellbeing
  - g) Increase in litter and waste
  - h) Anti-social behaviour/ crime
  - i) Reduction in air quality
  - j) Increase in nitrates levels
  - k) Increase in crime rates

## 8.0 COMMENT

- 8.1 The main determining issues for this application relate to the following:

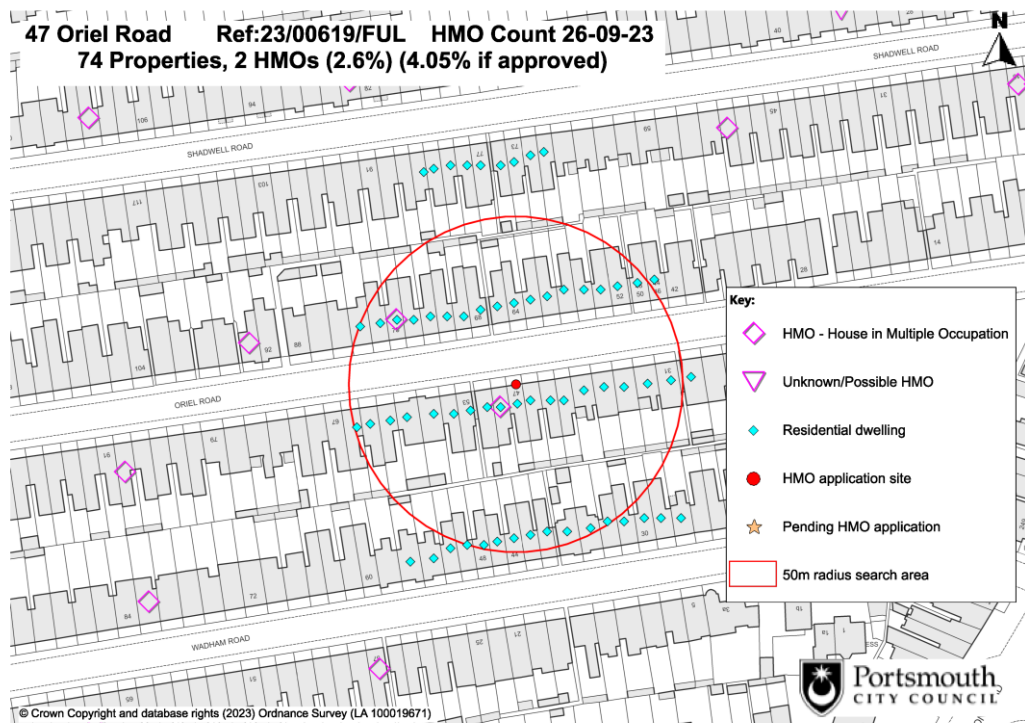
- The principle of Development;
- The standard of accommodation;
- Impact upon amenity neighbouring residents;
- Parking;
- Waste;
- Impact upon the Solent Protection Areas; and
- Any other raised matters

### 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). 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 74 properties within a 50-metre radius of the application site, there are only 2 confirmed HMOs (Class C4) 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 the Case Officer. Including the application property, the proposal would bring the percentage of HMOs within the area up to 4.05%. This would be lower than the 10% threshold above which an area is considered to be imbalanced and in conflict with Policy PCS20.



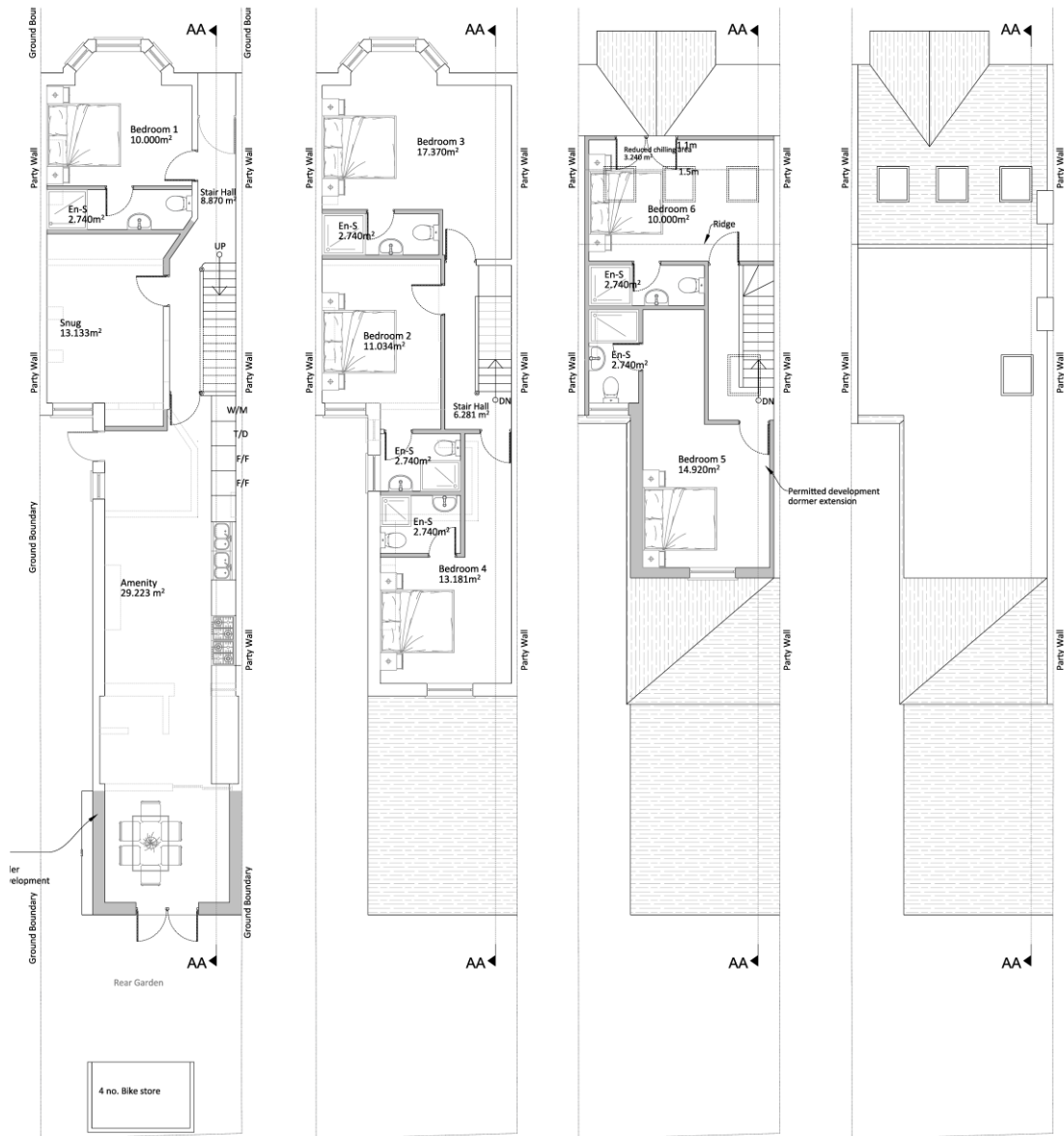
**Figure 3 - Existing HMOs within 50m of the application site**

- 8.7 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. Although the adjoining property at no. 49 has just gained planning permission for use as an HMO this proposal does not conflict with this guidance.
- 8.8 Having regard to the above, the proposal would comply with the aims and objectives of Policies PCS19 and PCS20 of the Portsmouth Plan (2012).
- 8.9 Standard of accommodation
- 8.10 The application seeks, in addition to a C3 use, the opportunity to use the property as a C4 HMO which would, in planning terms, technically allow occupation by up to six individuals. The submitted plans have been checked by officers, and, notwithstanding the annotations on the submitted plans the measured room 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 (ground floor)	10m2	10m2
Bedroom 2 (first floor)	11m2	10m2
Bedroom 3 (first floor)	17.3m2	10m2
Bedroom 4 (first floor)	13.1m2	10m2
Bedroom 5 (second floor)	14.9m2	10m2
Bedroom 6 (second floor)	10m2	10m2
Ground floor shared wc	2.74m2	1.17m2
Living room (ground floor)	10.017m2	Unrequired/additional
Communal Kitchen/Dining area (ground floor)	29m2	34m2
Ensuite bathroom 1 (ground floor)	2.74m2	2.74m2
Ensuite bathroom 2 (first floor)	2.74m2	2.74m2
Ensuite bathroom 3 (first floor)	2.74m2	2.74m2
Ensuite bathroom 4 (first floor)	2.74m2	2.74m2
Ensuite bathroom 5 (second floor)	2.74m2	2.74m2
Ensuite bathroom 6 (second floor)	2.74m2	2.74m2

\* Excluding part of Bedroom 6 that was deemed to be unusable.

**Table 1 - HMO SPD (Oct 2019) compliance**



**Figure 4 - Proposed Floorplan 1**

- 8.11 Whilst the kitchen/dining area falls short of the minimum size standard for the proposed use by some 5 sq.m. it is considered that the additional living room makes up for the inadequacies of the kitchen/dining area. All of the bedrooms 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 and all habitable rooms would have good access to natural light.
- 8.14 Impact on neighbouring living conditions
- 8.15 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 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.
- 8.16 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 one further HMO would not be significantly harmful.
- 8.17 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), would not be significantly different from the occupation of the property by between 3 and 6 unrelated persons as a house in multiple occupation.
- 8.18 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, 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 two within a 50m radius) would not have any demonstrable adverse impact to wider amenity.
- 8.19 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.
- 8.20 Highways/Parking
- 8.21 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. However, it should be noted that the expected level of parking demand for a Class C3 dwellinghouse with four or more bedrooms would also be 2 off-road spaces, and these bedrooms could be achieved by permitted development without any planning control on parking. The expected level of parking demand for a Class C3 dwellinghouse with three bedrooms (as existing) is 1.5 off-road spaces. The property has no off-street parking.
- 8.22 The C4 element of the proposal compared to the existing property only expects an extra half a parking space, to which neither the Highways Officer nor Planning Officer raises an objection. 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.

8.23 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.

8.24 Waste

8.25 The storage of refuse and recyclable materials would remain unchanged, being located in the forecourt area, and an objection on waste grounds would not form a sustainable reason for refusal.

8.26 Impact on Special Protection Areas

8.27 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.

8.28 Community Infrastructure Levy (CIL)

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

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

8.31 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.

8.32 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.

8.33 Other Matters raised in the representations

8.34 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 which could be occupied by a similar number of occupants.

- 8.35 As mentioned the external works are constructed under permitted development and therefore considerations against any loss of light or privacy would not be relevant.
- 8.36 Impact upon property values are not a material planning consideration.
- 8.37 Fire safety is not a consideration in such a planning application and would be appropriately managed via Private Sector Housing and Building Control.
- 8.38 All other objections are addressed within the report above or conditions below.

## 9.0 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) (2021).

## RECOMMENDATION                      Conditional Permission

### 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.

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 - Drawing numbers: Floorplans - 112 PL04 Rev A; Side Elevations - 112 PL06 Rev A; and Elevations and Sections 112 - PL05 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 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.

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# Agenda Item 13

23/01139/FUL

WARD: EASTNEY & CRANESWATER

37 HENDERSON ROAD PORTSMOUTH PO4 9JD

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

### **Application Submitted By:**

Mrs Carianne Wells  
Applecore PDM Ltd

### **On behalf of:**

Walker

**RDD:** 16.11.2023

**LDD:** 14.12.2023

## **1.0 SUMMARY OF MAIN ISSUES**

1.1 This application is brought before Planning Committee due to the number of objections (19) including an objection from Cllr Matthew Winnington

1.2 The main issues for consideration in the determination of the application/appeal are considered to be as follows:

- The principle of development;
- Standard of accommodation;
- Parking;
- Waste;
- Amenity impacts upon neighbouring residents;
- Impact upon the Solent Protection Areas; and
- Any other raised matters.

## **2.0 SITE AND SURROUNDINGS**

2.1 The application relates to a two-storey, terraced dwellinghouse (Class C3) located on the northern side of Henderson Road as shown in **Figure 1** below, with Ringwood Road to the east. The dwellinghouse is set back from the road by a very modest front garden and to the rear of the property is an enclosed garden. The existing layout comprises of a lounge, a kitchen, a dining room, and a WC 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 rows of similar two-storey semi-detached and terraced properties with a similar visual style.



**Figure 1 - Site Location Plan**

### 3.0 THE PROPOSAL

3.1 Planning permission is sought for the change of use of the property from a dwellinghouse (Class C3) to a dwellinghouse (Class C3) or House of Multiple Occupation (HMO) (Class C4) use with up to six individuals living together. This will be facilitated by a loft conversion and ground floor rear extension, both under permitted development rights which the application site benefits from.

3.2 The proposed internal accommodation, as shown in **Figure 2** below, comprises the following:

- Ground Floor - Two bedrooms (each with a shower, toilet and handbasin ensuite), and a Kitchen/Dining room.
- First Floor - Three bedrooms (all with a shower, toilet and handbasin ensuite).

- Second Floor - One bedroom (with shower, toilet and handbasin ensuite), a shared shower room, and a study room.
- 3.3 The Applicant intends to exercise permitted development rights to construct a small rear extension, a new larger rear dormer extension within the main roof and new roof lights to the front roof slope (as shown in the drawing below), to facilitate the enlargement of the property before undertaking the proposed development. The extensions and alterations can be completed under permitted development regardless of whether the property is in Class C3 or C4 use.
- 3.4 Given the external alterations and enlargements to the property are considered to be permitted development, it is not possible to consider the design or amenity impact of the rear dormer or side/rear ground floor extension as part of this application. There would be no external operational development forming part of this application with the exception of the siting of a cycle store within the rear garden, details of which could be secured by planning condition.

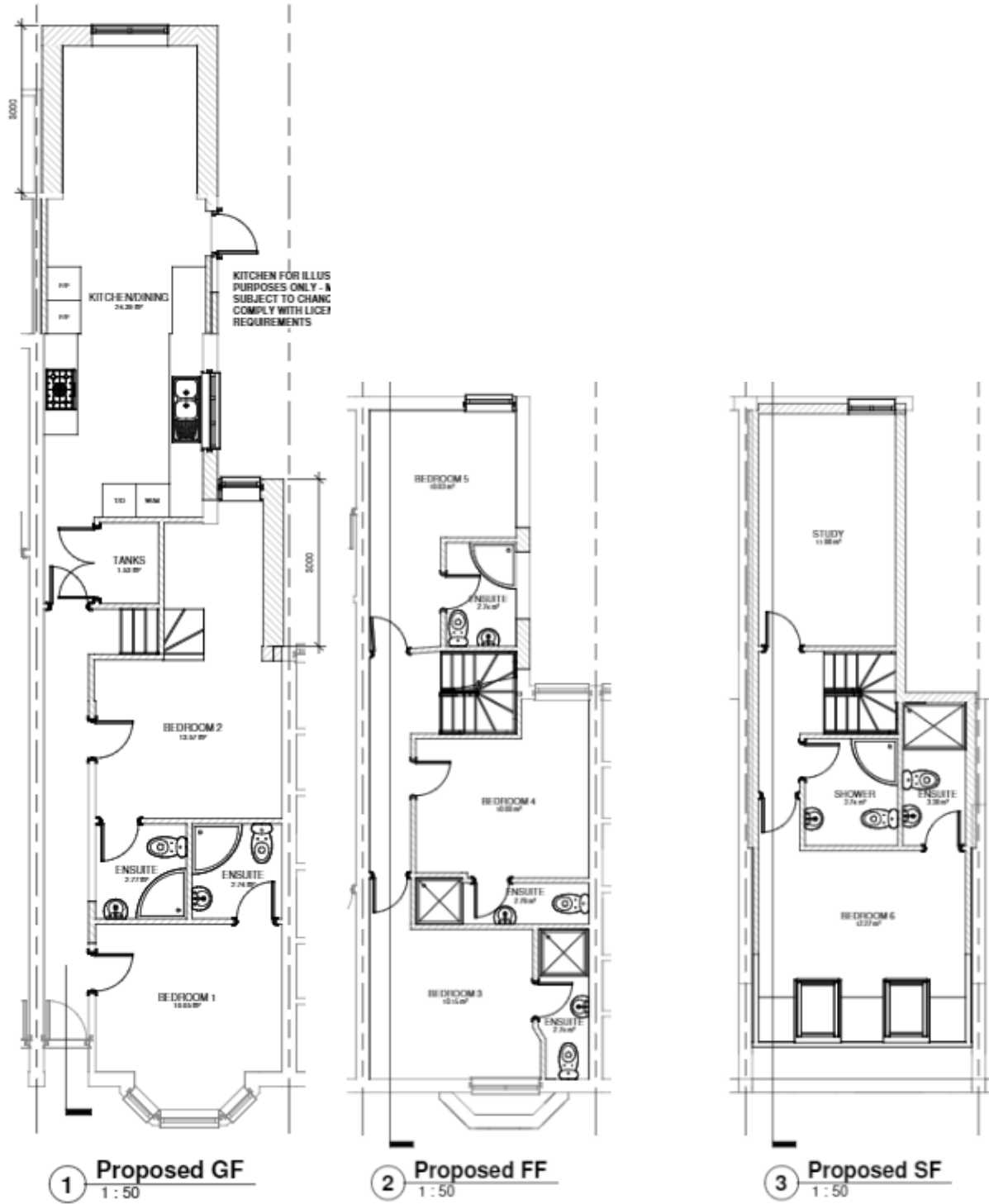


Figure 2 - Proposed plans

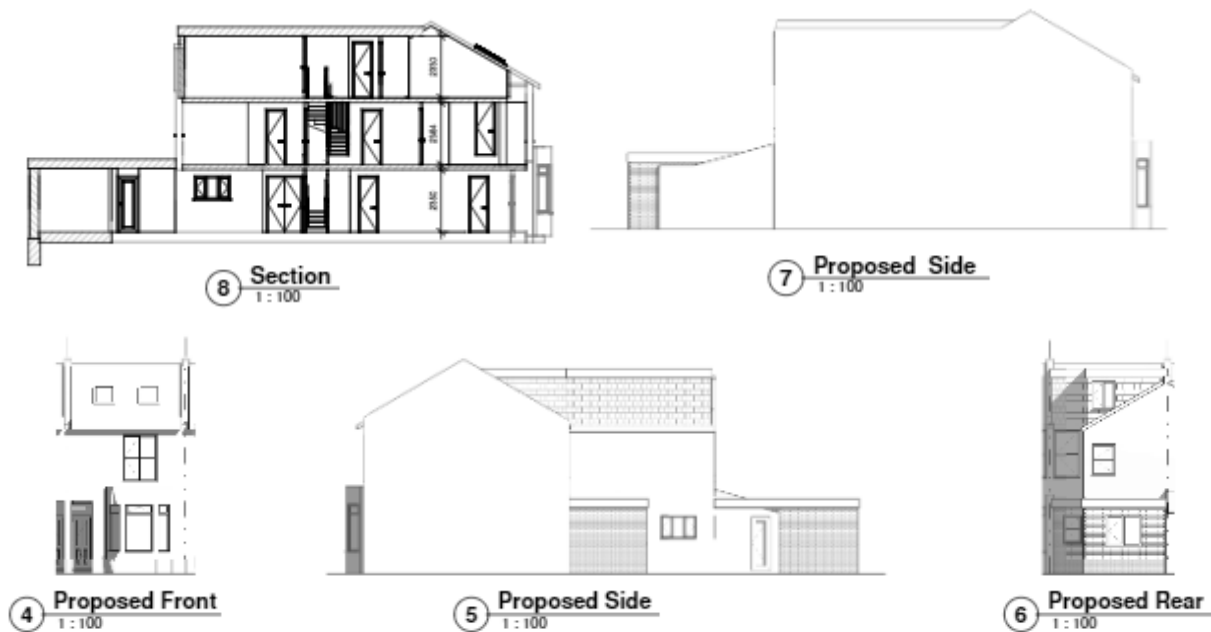


Figure 3 - Proposed Elevations

## 4.0 PLANNING HISTORY

4.1 None.

## 5.0 POLICY CONTEXT

5.1 Portsmouth Plan (2012)

5.2 In addition to the aims and objectives of the National Planning Policy Framework (2021), due weight has been given to the relevant policies within the Portsmouth Plan (2012), which include:

- PCS17 (Transport)
- PCS20 (Houses in Multiple Occupation)
- PCS23 (Design and Conservation).

5.3 Other Guidance

5.4 Guidance for the assessment of applications that is relevant to the application includes:

- National Planning Practice Guidance (revised 2021)
- The Parking Standards and Transport Assessments Supplementary Planning Document (2014)
- The Solent Recreation Mitigation Strategy (2017)
- The Interim Nutrient Neutral Mitigation Strategy (2022)
- The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD').

## 6.0 CONSULTATIONS

- 6.1 Public Sector Housing - 1 The new standards require a room to have a usable space that is measured from the floor to ceiling height of 2.3m or over for at least 75% of the room. Based on the drawings it is unclear if the usable space of bedroom 6 reaches this requirement. 2 The property will require mandatory licencing

*Officer note - as C4 use can be between 3 and 6 unrelated occupants, the applicant is advised about the licensing requirements; however this would not be a material planning consideration for this application*

## **7.0 REPRESENTATIONS**

- 7.1 Nineteen representations have been received objecting to the proposed development, and one from Cllr Matthew Winnington.

- 7.2 The above representations of objection have raised the following concerns:

- a) Loss of family home from the existing housing stock;
- b) Increase in noise and disturbance;
- c) Increase in crime and anti-social behaviour;
- d) Lack of car parking provision leading to an increase in traffic and exacerbation of existing on-street parking problems;
- e) Undue strain on local services and infrastructure, including the sewage, drainage, waste management and Doctors/Dentists
- f) Concerns about impact on community
- g) Negative affect on property prices
- h) Extension will block light to neighbouring property.
- i) Fire safety

## **8.0 COMMENT**

- 8.1 The main determining issues for this application relate to the following:

- The principle of Development;
- 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**

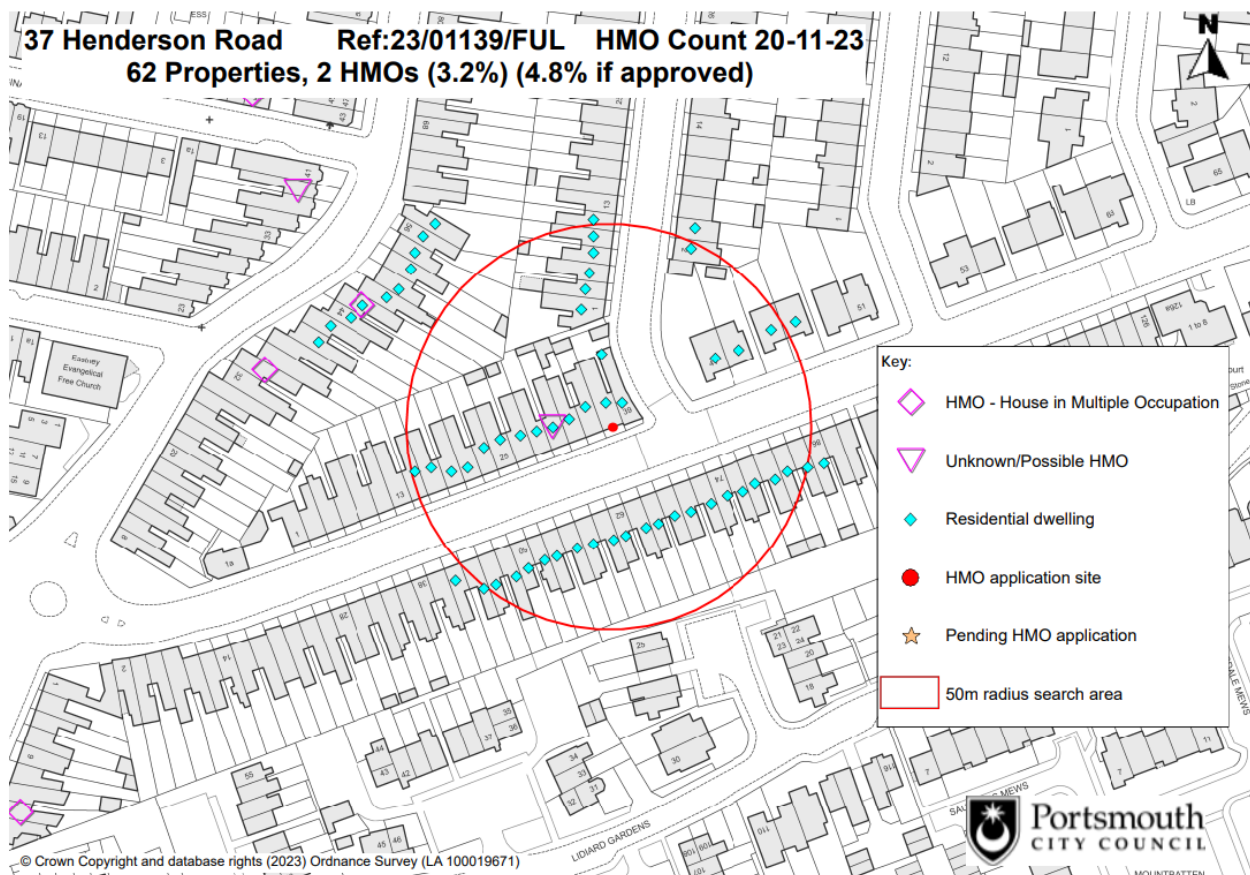
- 8.3 Permission is sought for the flexible use of the property for purposes falling within Class C4 (house in multiple occupation) (HMO) or Class C3 (dwellinghouse). The property currently has a lawful use as a self-contained dwelling (Class C3). For reference, a Class C4 HMO is defined as '*a property 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 62 properties within a 50-metre radius of the application site, there are 2 confirmed HMO (Class C4), 46 Eastney Road and 31 Henderson Road, and the application property No 37 Henderson Road, 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 the Case Officer. Including the application property, the confirmed HMOs within a 50-metre radius of the application property the proposal would result in the percentage of HMOs within the area as 4.8%. This would be lower than the 10% threshold above which an area is considered to be imbalanced and in conflict with Policy PCS20.



**Figure 4** - Existing HMOs within 50m of the application site

- 8.7 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.

8.8 Having regard to the above, the proposal would comply with the aims and objectives of Policies PCS19 and PCS20 of the Portsmouth Plan (2012).

8.9 Standard of accommodation

8.10 The application seeks, in addition to a C3 use, the opportunity to use the property as a C4 HMO which would, in planning terms, technically allow occupation by up to six individuals. The 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 (ground floor)	10.05m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 2 (ground floor)	13.57m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 3 (first floor)	10.15m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 4 (first floor)	10m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 5 (first floor)	10.03m <sup>2</sup>	6.51m <sup>2</sup>
Bedroom 6 (second floor)	12.27m <sup>2</sup>	6.51m <sup>2</sup>
Communal Kitchen/Dining area (ground floor)	24.39m <sup>2</sup>	22.5m <sup>2</sup> as all bedrooms exceed 10m <sup>2</sup>
Ensuite bathroom 1 (ground floor)	2.74m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 2 (ground floor)	2.77m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 3 (first floor)	2.74m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 4 (first floor)	2.79m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 5 (first floor)	2.74m <sup>2</sup>	2.74m <sup>2</sup>
Ensuite bathroom 6 (second floor)	3.38m <sup>2</sup>	2.74m <sup>2</sup>
Tanks room (ground floor)	0.98m <sup>2</sup>	Not required/ additional
Study (second floor)	11.98m <sup>2</sup>	Not required/ additional
Shower room (second floor)	3.74m <sup>2</sup>	Not required/ additional

**Table 1** - HMO SPD (Oct 2019) compliance

8.11 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 combined living/dining room. 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<sup>2</sup> and the accommodation is otherwise acceptable as communal space. There is also a good sized room proposed in the second floor loft conversion in the form of a study, which would also be able to provide additional communal living space. 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.

8.14 Impact on neighbouring living conditions

8.15 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 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.

- 8.16 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 one further HMO would not be significantly harmful.
- 8.17 Concerns have been raised in the representations regarding a potential increase in crime and anti-social behaviour as a result of the proposed change of use. However, the Council does not have any evidence to suggest that HMOs result in higher levels of crime or anti-social behaviour than a Class C3 dwellinghouse.
- 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), would not be significantly different from the occupation of the property by between 3 and 6 unrelated persons as a house in multiple occupation.
- 8.19 Through the occupants possibly not acting as a collective and therefore cooking meals and carrying out other activities on an individual basis, it could be regarded that general activity could increase with more coming and goings to the site and within the site. However, the proposal 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 three within a 50m radius) would not have any demonstrable adverse impact to wider amenity.
- 8.20 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.
- 8.21 Highways/Parking
- 8.22 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. However, it should be noted that the expected level of parking demand for a Class C3 dwellinghouse with four or more bedrooms would also be 2 off-road spaces, and these bedrooms could be achieved by permitted development without any planning control on parking. The submitted existing plans show that the property currently has 3 bedrooms. The property has no off-street parking.
- 8.23 The C4 element of the proposal compared to the existing 3 bedroomed property would not expect any increase in the current required level of off-road parking spaces. As the level of occupation associated with an 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.

- 8.24 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.
- 8.25 Waste
- 8.26 The storage of refuse and recyclable materials would remain unchanged, being located in the forecourt area, and an objection on waste grounds would not form a sustainable reason for refusal.
- 8.27 Impact on Special Protection Areas
- 8.28 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.
- 8.29 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 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.
- 8.33 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.
- 8.34 Other Matters raised in the representations.
- 8.35 Concerns have been raised by neighbouring residents regarding the pressure the use would put on local services. However, having regard again 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 which could be occupied by a similar number of occupants.

- 8.36 As mentioned above the rear dormer and rear extension accords with Permitted Development and therefore the Local Planning Authority cannot give consideration towards the impact of the built form on the neighbour amenity.
- 8.37 Objections have been received regarding the increase in the risks of fires as a result of the change of use. It is adjudged that the risk of fire is no greater under C4 use than C3, however smoke detectors and other fire suppression tools are requirements under various legislation including HMO licencing and the Housing Act 2004.
- 8.38 Objections have been received that centre around parking issues. This matter is discussed above in greater length. In summary, a lack of parking could not be defended at appeal due to policy having the same parking requirement for the proposed C4 use and the current C3 use.

## 9.0 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) (2021).

## RECOMMENDATION                      Conditional Permission

### 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.

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:
- BLOCK PLAN - Dwg No. TQRQM23108112706170
  - DUAL USE PLAN - Dwg No. PG.8139 · 23 · 4 Rev B
  - 4 CYCLE STORAGE SHED - Dwg No. 1

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 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.

**External works as shown:**

- 4) Prior to first occupation of the property as a House in Multiple Occupation within Use Class C4, the building operations indicated within approved drawing numbers: namely the construction of the single storey rear extension, and dormer window shall be completed.

Reason: To ensure that adequate and communal living space is provided in accordance with Policy PCS23 of the Portsmouth Plan (2012) and the Houses in Multiple Occupation Supplementary Planning Document (2019).

**Informative**

- a) 2 x 360 litre bins are required for a 6 bed HMO. The applicant will need to purchase these bins directly from Portsmouth City Council Waste Management prior to the tenants moving in.
- b) The dual Use Classes C3/C4 (dwellinghouses/3-6 person HMO) 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 C4 occurs. It should be noted that 10 years from the date of this permission, the flexibility currently 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 to be used as a dual 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.

- c) 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](mailto: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