

# NOTICE OF MEETING

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## PLANNING COMMITTEE

WEDNESDAY, 14 OCTOBER 2015 AT 5.00 PM

THE EXECUTIVE MEETING ROOM - THIRD FLOOR, THE GUILDHALL,  
PORTSMOUTH

Telephone enquiries to Jane Di Dino 02392 834060

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### Planning Committee Members:

Councillors Aiden Gray (Chair), Stephen Hastings (Vice-Chair), Jennie Brent, Ken Ellcome, David Fuller, Colin Galloway, Scott Harris, Hugh Mason, Sandra Stockdale and Gerald Vernon-Jackson

### Standing Deputies

Councillors John Ferrett, Margaret Foster, Hannah Hockaday, Suzy Horton, Lee Hunt, Donna Jones, Lee Mason, Robert New, Darren Sanders, Linda Symes and Rob Wood

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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 of the working day before the meeting, and must include the purpose of the representation (eg. 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 - 16 September 2015** (Pages 1 - 10)

The minutes of the Planning Committee meeting held on 16 September 2015 are attached.

**RECOMMENDED** that the minutes of the Planning Committee meeting held on 16 September 2015 be confirmed as a correct record and signed by the chair.

- 4 **Updates by the Assistant Director of Culture and City Development**
- 5 **Technical Housing Standards - Nationally Described Space Standards**  
(Pages 11 - 14)

Purpose

The purpose of this report is to draw members' attention to national internal space standards that came into force on 1 October 2015.

**RECOMMENDED** that the report be noted.

Planning applications

- 6 **15/00862/FUL - 94 Napier Road, Southsea, PO5 2RB - Change of use from dwelling house (Class C3) to purposes falling within Class C3 (dwellinghouse) or C4 (house in multiple occupation)** (Pages 15 - 30)
- 7 **15/01417/FUL - 10-14 Grove Road South, Southsea, PO5 3QT - change of use from retail (A1 Class) to restaurant (A3 Class)**
- 8 **15/01422/FUL - 48 Festing Grove, Southsea, PO4 9QD - change of use from guest house (Class C1) to 9 bed house in multiple occupation (sui generis)**

Members of the public are now permitted to use both audio visual recording devices and social media during this meeting, on the understanding that it neither disrupts the meeting or records those stating explicitly that they do not wish to be recorded. Guidance on the use of devices at meetings open to the public is available on the Council's website and posters on the wall of the meeting's venue.

# Agenda Item 3

## PLANNING COMMITTEE

MINUTES OF THE MEETING of the Planning Committee held on Wednesday, 16 September 2015 at 5.00 pm in The Executive Meeting Room - Third Floor, The Guildhall

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

### Present

Councillors Aiden Gray (Chair)  
Stephen Hastings (Vice-Chair)  
Jennie Brent  
Ken Ellcome  
David Fuller  
Colin Galloway  
Scott Harris  
Hugh Mason  
Sandra Stockdale  
Gerald Vernon-Jackson

### Also in attendance

Councillors Luke Stubbs, Linda Symes and Matthew Winnington.

### Welcome

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

### Guildhall, Fire Procedure

The chair, Councillor Gray, 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.

### 88. Apologies for absence (AI 1)

Apologies for lateness were received from Councillor Vernon-Jackson, who was a few minutes late.

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

Councillor Vernon-Jackson declared an interest in respect of planning application 2 - Northern Pavilion and Bowling Green Adjacent to Eastern Parade, Canoe Lake, Southsea Esplanade - in that he had been involved in discussions with the applicant and felt that it would be prudent to leave the room during the discussion of this application.

### 90. Minutes of Previous Meeting - 12 August 2015 (AI 3)

RESOLVED that the minutes of the Planning Committee meeting held on 12 August 2015 be approved as a correct record and signed by the chair.

**91. Code for Councillors and Officers in respect of Planning Matters - an introduction (AI 4)**

The Senior Solicitor (Planning) summarised the revised Code for councillors and officers in respect of planning matters. She advised members that the Planning Code was in place to both protect the Council and help councillors. The Code applies to any member of the Council who engages with development planning and management and all councillors should familiarise themselves with the Code. Paragraph 4.3 is a most important paragraph for councillors: it was advised that if members think they may have an interest, advice should be sought from the Monitoring Officer or Deputy Monitoring Officer prior to the Planning Committee. Following changes to legislation it may be a criminal offence if a member does not declare any disclosable pecuniary interest which relates to any matter and including planning matters: the Councillors' Code of Conduct should be referred to.

Councillor Hugh Mason referred to paragraph 12.8 of the Code and said that councillors are often approached by neighbours to a potential application site or other interested parties. He asked whether councillors should produce a clear written note for the City Development Manager recording what has been discussed and any comments or advice given, in these situations. The Senior Solicitor (Planning) advised this would be for the councillor to judge and decide whether in hindsight they would regret not producing a note.

**RESOLVED that the Committee note the revised code.**

**92. Updates by the City Development Manager on previous planning applications (AI 5)**

There were no updates.

**93. Planning appeal decision relating to 591 London Road, Hilsea (AI 6)**

(TAKE IN REPORT BY THE ASSISTANT DIRECTOR OF CULTURE AND CITY DEVELOPMENT)

The Assistant Director of Culture and City Development introduced the report.

In response to a question regarding challenging the inspector's decision, she advised that the inspector had fully considered all issues and it was a robust decision. It was therefore not in the Council's interest to pursue a judicial review into the decision. Councillor Ellcome wished to formally register his disappointment with the Planning Inspector's decision and felt this was another example of interference from outside, disregarding the professional advice of the council's planning officers.

**RESOLVED that the report be noted.**

**94. 15/00862/FUL - 94 Napier Road Southsea PO5 2RB - Change of use from dwelling house (Class C3) to purposes falling within Class C3 (dwellinghouse) or C4 (house in multiple occupation) (AI 7)**

(TAKE IN REPORT BY THE ASSISTANT DIRECTOR OF CULTURE AND CITY DEVELOPMENT)

The Assistant Director of Culture and City Development reported in the supplementary matters list that an amended ground floor plan was been received (16/9/15). This includes the recently constructed single storey extension to the rear of the property which has resulted in amendments to the internal layout and the inclusion of a bedroom adjacent to the front door (increasing the total number of bedrooms within the property to four). The plan also identifies a new location for bin and cycle storage.

The recommendation for the application is unchanged, except for the substitution of condition 3 with the following amended wording in relation to cycle provision:

" Prior to the first occupation of the property as a Class C4 HMO, or such other period as may be agreed in writing by the Local Planning Authority, cycle storage facilities shall be provided in accordance with a detailed scheme to be submitted to and approved in writing by the Local Planning Authority. These facilities shall thereafter be retained for the use of occupiers of the property for that purpose".

A deputation was heard from Mr Lancaster, on behalf of the applicant, who included the following points in his representations:

- Concerns had been raised that the property would be let to six people but they would only be renting to four.
- No decision had been made as to whether to rent to students, professionals or a family.
- If they did rent to students, it would be very unlikely they would own cars as students often cannot afford to run cars. The University of Portsmouth also encourage students not to bring cars, whereas if the property was occupied by a family they may own one or two cars.
- Students only occupy properties for a small portion of the year.
- Not all students are noisy neighbours and there is no guarantee a family would not be noisy.
- The University of Portsmouth currently has 21,000 students and has stated there is not enough student accommodation in the city.
- Students deserve housing as much as families.
- The change of use would not exceed the 10% threshold for HMO's in the vicinity.

A deputation was heard from Councillor Symes, objecting to the application, who included the following points in her representations:

- She had looked at the electoral roll which showed that there are currently 13 properties that are not registered to vote and 17 with unrelated people living in them, in the vicinity of the application site, suggesting that there are more HMO's than the Council are aware of, potentially exceeding the 10% threshold.

- Students often do have cars and another 2-3 cars in the road would add to the parking problems.
- Student lifestyles are different to that of a family.
- The neighbouring residents that she has spoken to talk about the friendly feel of the area being eroded due to many houses being used as HMO's.
- Neighbouring properties who had objected did not have notification that the application was coming to committee.
- Understands the need for student accommodation but this is not the right area.
- She suggested that the committee defer the application to enable an audit of HMO properties in the area.

### Members' questions

Members sought clarification on the addresses of the two properties registered on the 2014 database as HMO's that were no longer classed as C4 use. Officers advised there were 69 Duncan Road and 6 Lowcay Road. Neither had planning permission for C3/C4 use or a permit for a HMO licence and there was no evidence to suggest they were being used as HMO's. A member advised that 37 Napier Road was being used as a HMO and there are others in the vicinity. Officers advised that they had been made aware that 37 Napier Road was a possible HMO, however there was no planning history or other evidence to suggest this was being used as a HMO.

In response to a question about whether officers physically visit suspected HMO properties, officers advised that they check if properties are being used as HMO's using the council tax records, however they would not usually go and knock on doors to ask who is living in the property as this can be sensitive and intrusive. If there is an allegation of an HMO though they would investigate this further. If members have evidence that a property is being used as a HMO they should advise the planning department to enable further investigation.

In response to a question about whether the kitchen extension needed planning permission, officers advised that this did require permission notwithstanding that the extension has already been built and that the applicant has been made aware of this. A retrospective application is anticipated. In response to a further question, officers advised that there was no rear access to the property so bikes would need to be moved through the house out to the cycle storage area.

Members asked Councillor Symes whether she had the addresses of the suspected HMO properties in the vicinity of the application site that she referred to in her deputation however she advised she did not have these.

In response to a question regarding how many HMO properties would tip the 10% threshold, officers advised roughly two more HMO properties would exceed the threshold.

In response to the point made in Councillor Symes' deputation about neighbouring properties not being advised the application was coming to today's committee, the Assistant Director of Culture and City Development advised that a decision was made approximately six years ago, that letters would not be sent out to all those who

had objected/supported an application unless they specifically ask to make a deputation at the planning committee, and advising them to follow the status of the application on the council's website. This was explained in the initial letter to them.

Extensive work had taken place to determine the number of HMO properties in the vicinity and officers had worked with a number of teams in the Council and used all this information when writing their report however further properties had been highlighted following today's discussion so further investigation of this might be necessary.

#### Members Comments

Members agreed that there as there were outstanding issues and potentially more HMO properties in the vicinity which would affect their decision, it would be sensible to defer this application to allow officers to carry out an audit of HMO properties in the vicinity.

**Resolved that the application be deferred to allow officers to complete an audit of HMO properties in the vicinity.**

- 95. 15/01161/FUL - Northern Pavilion And Bowling Green Adjacent To Eastern Parade Canoe Lake Southsea Esplanade - Change of use from bowls club to day nursery; external alterations to pavilion to include construction of front and side extensions, new pitched roof, veranda and cladding; landscaping to include canopies, play equipment and raised planters; and associated boundary treatments, refuse storage facilities and entrance (Re-submission of 14/00414/FUL) (AI 8)**

Councillor Vernon-Jackson left the room at the start of this item due to his interest.

(TAKE IN REPORT BY THE ASSISTANT DIRECTOR OF CULTURE AND CITY DEVELOPMENT)

The Assistant Director of Culture and City Development introduced the report and reported that amended plans have been received to reflect the development "as-built" and further consultee responses and representations, as set out below.

#### Representations

Two further letters of representation (seven in total) have been received raising objections on similar grounds to those previously reported and addressed within the main Planning Committee Report.

#### Highways Engineer

Many residential properties to the north benefit from off road parking facilities with additional unrestricted on-road parking provided along Eastern Parade and the adjoining side roads. In the absence of any parking restrictions or requirement for payment, these roads can be busy with visitors to the Canoe Lake area and the wider seafront, particularly at weekends and week days during summer months. However, it is considered that the area does not suffer from any significant parking issues that are common elsewhere within the city.

Notwithstanding the generally light traffic flows on the surrounding highway network which encourages walking and cycling, it is accepted that the proposal would result in a number of children arriving and leaving the site by car. Activity associated with the pick-up and drop-off of children at a nursery would generally be spread across a longer period when compared to that of a school, and will vary depending on parents working patterns. This would reduce the number of vehicles manoeuvring during any given period, unlike a school, where all pupils start and finish at the same time. Regard must also be given to the previous lawful use of the site as a bowling club where there was not only a demand for pick-up and drop-off, but also a requirement for long term parking spaces for members of the club throughout the day.

Given the proposed hours of operation the nursery would not affect resident and visitor parking facilities during the evening and weekends. Furthermore, and as highlighted above, having regard to the proximity of residential development within the surrounding area and the ease of access on foot, it cannot be assumed that all staff and children would arrive by car. The accident analysis for the past 5-year period indicated no pedestrian injury accidents in the vicinity of the site. With ample on street car parking available in the surrounding area and general light trafficking; the proposal is unlikely to have a significant impact on the adjoining highway.

Recommendation - No objection subject to conditions in respect of refuse storage.

#### Environmental Health

A similar application has been approved on appeal (14/00414/FUL). Since the environment has not changed since the appeal was allowed by the Planning Inspectorate previous comments will be reiterated. Due to the nearest noise sensitive property being 28m away, any noise associated with the outside play area within the nursery grounds will be masked by the intense use and high activity background noise. Any noisy activity generated by the proposed use would not be unduly intrusive as the nursery will only operate from 07:00 to 18:30 Monday to Friday, therefore it would not cause an adverse impact upon sleep or relaxation at the weekends. There are also a number of nurseries that operate throughout the city that are within a closer proximity to residential accommodation than the northern pavilion. Environmental Health have not received any complaints concerning the running of these learning establishments in relation to noise.

In summary, it is unlikely that a loss of amenity will be caused to the nearest residential accommodation. Therefore, no objection is raised to this application being granted.

#### Sport England

The site is not considered to form part of, or constitute a playing field as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2010 (Statutory Instrument 2010 No.2184), therefore Sport England has considered this a non-statutory consultation and has not applied its planning policy- A Sporting Future for the Playing Fields of England.



Sport England consulted England Bowls (EB) as the National Governing Body for Bowls to seek comments on this proposed development. This green and the other one to the south were previously home of three Bowling Clubs. EB advised that Portsmouth City Council wrote to the Canoe Lake Bowling Association (CLBA) in 2012 advising them that the existing lease on the clubhouse would terminate and if the Association wished to continue using the facility they would need to maintain the greens and associated building. The Association were not in a financial position to do so which resulted in them leaving the facilities and finding alternative arrangements.

Paragraph 70 of the National Planning Policy Framework (NPPF) requires policies to plan positively for the provision and use of shared space, community facilities and other local services including sports venues to enhance the sustainability of communities and residential environments. Decisions should guard against the unnecessary loss of valued facilities and services.

Paragraph 74 includes a strong presumption against building on open space and other sports and recreation building unless one of the three strict criteria can be met:

- Assessment has shown the open space, building or land to be surplus to requirement
- Proposed loss to be replaced by equivalent or better provision in terms of quality and quantity in a suitable location.
- Development is for an alternative sports and recreational provision which clearly outweighs the loss of existing.

If the Council are minded to approve the application it must be satisfied that the proposal complies with paragraph 74 of the NPPF and Policy PCS13 A Green Portsmouth (Core Strategy) which identifies this bowling green for protection.

In the absence of a detailed justification demonstrating that the proposed development complies with paragraph 74 of the NPPF, Sport England formally objects to the loss of this built sports facility.

This application has not significantly changed the proposal, in the fact it would still result in the loss of a built sports facility and no further justification demonstrating that the development complies with paragraph 74 of the NPPF has been provided. Therefore Sport England's view of the development remains the same i.e. It is not considered to comply with Paragraph 74 of the NPPF.

Notwithstanding the above, Sport England recognises that the principle of the development is established by the granting of planning permission. The Local Authority must therefore consider Sport England's objection along with all other material considerations including the extant permission.

#### Conditions

Amended drawings have been submitted to correct slight discrepancies. Condition 2 has been amended to reflect the revised drawings.

Officers advised that whilst the concerns of Sport England are noted, as highlighted within their consultation response, the LPA must consider Sport England's comments

along with all other material considerations including the previous decision of the Planning Inspector.

Having regard to that decision and the justification provided by the applicant as part of the previous planning application/appeal in accordance with paragraph 74 of the NPPF, it is considered that an objection on the grounds of insufficient justification or the loss of a built sports facility could not be sustained.

Recommendation unchanged, subject to a minor amendment to the wording of Condition 2.

A deputation was made by the applicant, Mrs McMinn, whose points included:

- There is a demand for early years provision in the area and this is a stunning location.
- The roof has been redesigned to make it more in keeping with the surrounding buildings.
- Has past experience of operating a nursery in a residential area.
- Has a good relationship with neighbours and has been liaising with them with regards to their concerns about noise and parking.

A deputation was made by Councillor Stubbs, whose points included:

- The application already has approval to accommodate 49 children, the applicant has now been reduced to 43 children which will cause less issues with parking and noise.
- The principle of having a nursery on this site is already established.
- Design of the building is now much improved and in the style of surrounding buildings.

A deputation was made by ward councillor Councillor Winnington whose points included:

- The design of the building is much better than the original application.
- Has some concerns about work being done before planning permission had been approved.

#### Members' questions

In response to a question about the size of the site, officers advised this was 2,805 square metres.

#### Members' comments

Members felt that as the proposed application would only be 1% of the total size of the site and the design of the building was much improved that the officer's recommendation should be approved.

**RESOLVED that delegated authority given to Assistant Director of Culture & City Development to grant conditional permission subject to no further representations raising new material planning issues not previously addressed.**

The meeting concluded at 6.13 pm.

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Signed by the Chair of the meeting  
Councillor Aiden Gray

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**Decision maker:** Planning Committee - 14 October 2015

**Subject:** Technical housing standards - nationally described space standards

**Report by:** Assistant Director of Culture & City Development

**Wards affected:** All

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## 1. Purpose of report

The purpose of the report is to draw Members attention to national internal space standards that came into force on 1 October 2015.

## 2. Recommendation

That the report be noted.

## 3. Background

The government has outlined proposals for the development of a nationally described space standard in the "Planning Update March 2015" Written Ministerial Statement.

Local internal space standards were adopted through policy PCS19 of the Portsmouth Plan and the Housing Standards Supplementary Planning Document (SPD).

In response to the Ministerial Statement, a Housing Standards Review Briefing Note of changes to the local standard was posted on the Council's website. The Briefing Note provided clarity that for any planning applications determined up to 30th September 2015, the existing adopted internal space standards continue to apply until they become superseded by those introduced through the Nationally Described Space Standards.

## 4. Comments

From 1st October 2015, the requirement to meet internal space standards for new homes still remains but the specific size standards to be met now taken from the Nationally Described Space Standard (set out in annex 1 of this report).

This Standard deals with internal space within new dwellings, across all tenures. It sets out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling height.

**5. Equality impact assessment (EIA)**

There is no significant impact.

**6. Head of legal services' comments**

None.

**7. Head of finance's comments**

None.

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 Signed by:

**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

| <b>Title of document</b>   | <b>Location</b>   |
|--|---|
| National Planning Policy Framework (March 2012)                                |   |
| Technical housing standards - nationally described space standard (March 2015) |   |
| Housing Standards Review briefing note (PCC website)                           | <a href="https://www.portsmouth.gov.uk/ext/documents-external/pln-housing-standards-review-briefing.pdf">https://www.portsmouth.gov.uk/ext/documents-external/pln-housing-standards-review-briefing.pdf</a> |

# Annex 1: The nationally described space standard

The Government published nationally described space standard deals with internal space within new dwellings and is suitable for application to housing of all tenures. It sets out requirements for the gross internal (floor) area (GIA) of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling height. More detail is on the [Government's website](#).

Minimum floor areas and room widths for bedrooms together with the minimum floor areas for storage are also an integral part of the space standard. They cannot be used in isolation from other parts of the design standard or removed from it. The GIA of a dwelling is defined as the total floorspace measured between the internal faces of the perimeter walls that enclose the dwelling. This should be set out in square metres.

The standard requires that:

- (a) the dwelling provides at least the gross internal floor area and built-in storage area set out in the table below
- (b) a dwelling with two or more bedspaces has at least one double (or twin) bedroom
- (c) in order to provide one bedspace, a single bedroom has a floor area of at least 7.5m<sup>2</sup> and is at least 2.15m wide
- (d) in order to provide two bedspaces, a double (or twin bedroom) has a floor area of at least 11.5m<sup>2</sup>
- (e) one double (or twin bedroom) is at least 2.75m wide and every other double (or twin) bedroom is at least 2.55m wide
- (f) any area with a headroom of less than 1.5m is not counted within the Gross Internal Area unless used solely for storage (if the area under the stairs is to be used for storage, assume a general floor area of 1m<sup>2</sup> within the Gross Internal Area)
- (g) any other area that is used solely for storage and has a headroom of 900-1500mm (such as under eaves) is counted at 50% of its floor area, and any area lower than 900mm is not counted at all
- (h) a built-in wardrobe counts towards the Gross Internal Area and bedroom floor area requirements, but should not reduce the effective width of the room below the minimum widths set out above. The built-in area in excess of 0.72m<sup>2</sup> in a double bedroom and 0.36m<sup>2</sup> in a single bedroom counts towards the built-in storage requirement
- (i) the minimum floor to ceiling height is 2.3m for at least 75% of the Gross Internal Area

**Table 1 - minimum gross internal floor areas and storage (m<sup>2</sup>)**

| Number of bedrooms (b) | Number of bed spaces (p) | One storey dwelling  | Two storey dwelling | Three storey dwelling | Built-in storage |
|------------------------|--------------------------|----------------------|---------------------|-----------------------|------------------|
| 1b                     | 1p                       | 39 (37) <sup>†</sup> | -                   | -                     | 1.0              |
|                        | 2p                       | 50                   | 58                  | -                     | 1.5              |
| 2b                     | 3p                       | 61                   | 70                  | -                     | 2.0              |
|                        | 4p                       | 70                   | 79                  | -                     |                  |
| 3b                     | 4p                       | 74                   | 84                  | 90                    | 2.5              |
|                        | 5p                       | 86                   | 93                  | 99                    |                  |
|                        | 6p                       | 95                   | 102                 | 108                   |                  |
| 4b                     | 5p                       | 90                   | 97                  | 103                   | 3.0              |
|                        | 6p                       | 99                   | 106                 | 112                   |                  |
|                        | 7p                       | 108                  | 115                 | 121                   |                  |
|                        | 8p                       | 117                  | 124                 | 130                   |                  |
| 5b                     | 6p                       | 103                  | 110                 | 116                   | 3.5              |
|                        | 7p                       | 112                  | 119                 | 125                   |                  |
|                        | 8p                       | 121                  | 128                 | 134                   |                  |
| 6b                     | 7p                       | 116                  | 123                 | 129                   | 4.0              |
|                        | 8p                       | 125                  | 132                 | 138                   |                  |

<sup>†</sup> Where a one person flat has a shower room rather than a bathroom, the floor area may be reduced from 39m<sup>2</sup> to 37m<sup>2</sup>.

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# Agenda Item 6

## PLANNING COMMITTEE 14 OCTOBER 2015

5 PM EXECUTIVE MEETING ROOM,  
3<sup>RD</sup> FLOOR, GUILDHALL

### REPORT BY THE CITY DEVELOPMENT MANAGER ON PLANNING APPLICATIONS

#### ADVERTISING AND THE CONSIDERATION OF PLANNING APPLICATIONS

All applications have been included in the Weekly List of Applications, which is sent to City Councillors, Local Libraries, Citizen Advice Bureaux, Residents Associations, etc, and is available on request. All applications are subject to the City Councils neighbour notification and Deputation Schemes.

Applications, which need to be advertised under various statutory provisions, have also been advertised in the Public Notices Section of The News and site notices have been displayed. Each application has been considered against the provision of the Development Plan and due regard has been paid to their implications of crime and disorder. The individual report/schedule item highlights those matters that are considered relevant to the determination of the application

#### REPORTING OF CONSULTATIONS

The observations of Consultees (including Amenity Bodies) will be included in the City Development Manager's report if they have been received when the report is prepared. However, unless there are special circumstances their comments will only be reported VERBALLY if objections are raised to the proposals under consideration

#### APPLICATION DATES

The two dates shown at the top of each report schedule item are the applications registration date- 'RD' and the last date for determination (8 week date - 'LDD')

#### HUMAN RIGHTS ACT

The Human Rights Act 1998 requires that the Local Planning Authority to act consistently within the European Convention on Human Rights. Of particular relevant to the planning decisions are *Article 1 of the First Protocol- The right of the Enjoyment of Property, and Article 8- The Right for Respect for Home, Privacy and Family Life*. Whilst these rights are not unlimited, any interference with them must be sanctioned by law and go no further than necessary. In taking planning decisions, private interests must be weighed against the wider public interest and against any competing private interests Planning Officers have taken these considerations into account when making their recommendations and Members must equally have regard to Human Rights issues in determining planning applications and deciding whether to take enforcement action.

Web: <http://www.portsmouth.gov.uk>

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**94 NAPIER ROAD SOUTHSEA PO5 2RB****CHANGE OF USE FROM DWELLING HOUSE (CLASS C3) TO PURPOSES FALLING WITHIN CLASS C3 (DWELLINGHOUSE) OR C4 (HOUSE IN MULTIPLE OCCUPATION)****Application Submitted By:**

Mr Joshua Stewart

**On behalf of:**

Mr Joshua Stewart

**RDD:** 1st June 2015**LDD:** 5th August 2015**SUMMARY OF MAIN ISSUES**

This application was deferred at the previous meeting of the Planning Committee (held on 16 September 2015) and officers requested to investigate a number of potential HMO properties within Napier Road identified in a deputation by Councillor Symes.

The determining issues for this application relate to the suitability of the proposed C3/C4 use within the existing community and its potential impact upon the living conditions of adjoining and neighbouring residents. Other considerations are whether the proposal complies with policy requirements relating to car and cycle parking.

**The Site**

This application relates to a two storey mid-terraced dwellinghouse located on the western side of Napier Road. The property is currently undergoing renovation and proposed floor plans indicate that it will comprise a living room, bedroom, kitchen and shower room at ground floor level and three bedrooms at first floor level. The property has been extended at the rear in the form of a single storey flat roofed addition to improve kitchen and bathroom facilities. This extension is currently unauthorised however a retrospective planning application has been received seeking to regularise the situation. New cycle and bin storage facilities are shown to be provided at the rear of the garden.

The site falls within the indicative area at risk of flooding (zones 2 and 3).

**The Proposal**

The lawful use of the property falls within Class C3 (dwellinghouse) of the Use Classes Order. This application seeks to change the use of this property from Class C3 (dwellinghouse) to purposes falling within Class C3 (dwellinghouse) or Class C4 (House in Multiple Occupation). Normally, a change of use between Class C3 and Class C4 would be classed as permitted development within the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). On the 1st November 2011 however, Portsmouth City Council implemented an Article 4 Direction relating to HMOs. As a result, planning permission is now required for a change of use between Class C3 (dwellinghouse) and Class C4 (House in Multiple Occupation) where between three and six unrelated people share at least a kitchen and/or bathroom.

## **Planning History**

A retrospective planning application (15/01612/HOU) has been received seeking permission for the single storey flat roofed extension to the rear of the application site.

## **POLICY CONTEXT**

The relevant policies within the Portsmouth Plan would include: PCS12 (Flood Risk), PCS17 (Transport), PCS20 (Houses in Multiple Occupation (HMOs)), PCS23 (Design and Conservation).

In addition to the above policies, the aims and objectives of the National Planning Policy Framework and the Houses in Multiple Occupation Supplementary Planning Document are relevant.

## **CONSULTATIONS**

None.

## **REPRESENTATIONS**

14 letters of objection have been received on the following grounds:

- \* would place additional pressure on existing limited available parking
- \* alarmed at increase in number of HMO's in area - suggest the 10% threshold must be exceeded already
- \* general concern about the unkempt appearance of some HMO properties and the often noisy and unsociable nature of some of the occupants
- \* a HMO use would not be an appropriate use of a property surrounded by young families and small children

Following the Planning Committee of 16 September a further letter was received suggesting that Nos. 31, 37, 39, 41, 43, 45, 68, 70 and 72 Napier Road have been in HMO use over the past year.

## **COMMENT**

The determining issues for this application relate to the suitability of the proposed C3/C4 use within the existing community and its potential impact upon the living conditions of adjoining and neighbouring residents. Other considerations are whether the proposal complies with policy requirements relating to car and cycle parking. Whilst the property lies within an indicative flood risk area it is not considered that the proposed change of use would render the property or its occupants any more vulnerable to tidal inundation than at present.

This application seeks permission to change the use of this property from purposes falling within Class C3 (dwellinghouse) to purposes falling within Class C3 (dwellinghouse) or Class C4 (House in Multiple Occupation). This would give the applicant greater flexibility to change between these two use classes.

Policy PCS20 of the Portsmouth Plan states that applications for changes 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 Houses in Multiple Occupation SPD provides further detail on how this policy will be implemented and how the City Council will apply this policy to all planning applications for HMO use.

Investigation of a number of potential HMO properties identified within Napier Road by Councillor Symes and an objection letter (in addition to those revealed on the HMO database) has concluded that:

- \* No.31 falls outside of the 50m radius search area for 94 Napier Road
  - \* Nos.41, 43, 45 and 68 are already on the Councils HMO database and as such have already been included in the HMO count for this application
  - \* Nos.39, 70 and 72 Napier Road have Class C3 use
  - \* No.37 has no HMO planning history and no HMO licence. No one answered the door when visited by a PCC Planning Implementation and Monitoring Officer and no response, to date, has been received to a postcard left at the property requesting contact. However, information received via the Council Tax Service has revealed that the property has been let on a room only basis (to 4 people at a time) and has been considered a HMO from 1st November 2011. As such, on the balance of probability based on the information available, it would appear that 37 Napier Road is occupied as a Class C4 HMO use and can be included within the count
  - \* No.73 has no HMO planning history nor an HMO licence, however, a visit to No.73 by the PCC Planning Implementation and Monitoring Officer established that the property is currently occupied as a HMO (3 occupants) and Council Tax records corroborate that the property has been used as such for a number of years
- \* Nos 69 Duncan Road and 6 Lowcay Road initially appeared on the HMO database as they fell within the 50m radius search area for 94 Napier Road. Both properties were however not included within the HMO figures reported to the previous Planning Committee as records revealed them to be in Class C3 use. A subsequent visit by the PCC Planning Implementation and Monitoring Officer confirmed this to be the case.

Therefore investigation has indicated that of the 88 properties located within a 50m radius of this property, 8 (i.e. the 6 initially identified and two additional properties at 37 Napier Road and 73 Napier Road) are currently in Class C4 HMO use.

The use of this property for purposes falling within Class C4 would increase this to 9 out of 88 or 10.22%. The proposed change of use would result in the 10% threshold set out in the Houses in Multiple Occupation SPD being exceeded. It is therefore considered that this application would result in the community becoming imbalanced contrary to the aims and objectives of policy PCS20 of the Portsmouth Plan.

With regards to the impact of the proposed use upon the living conditions of adjoining occupiers, the level of activity, including the demands placed on existing available on-street parking, associated with the use of any individual property as a Class C4 HMO is unlikely to be materially different to the use of a single household as a Class C3 dwellinghouse occupied by either a single family or other groups living as a single household. The Houses in Multiple Occupation SPD is supported by an assessment of the supply, demand and community impacts of shared housing in Portsmouth. Paragraphs 9.1-9.10 discuss the negative impacts upon local communities resulting from concentrations of Class C4 HMO uses. It is therefore considered that the use of this property for C3/C4 purposes does not have a detrimental impact upon the living conditions of local residents.

There is no off street parking provision at this property and none is proposed as part of this application however this property is located within a short walk of local transport links, shops and services. The submitted proposed ground floor plans indicate the provision of a cycle store at the rear of the garden. Whilst the principle of such storage is acceptable, the enclosure is not of sufficient size to accommodate 4 cycles and therefore represents inadequate provision. Whilst this could be addressed by way of a suitably worded planning condition, it would not overcome the harm arising from the imbalance of uses in the area.

Storage for refuse and recyclable materials would remain essentially unchanged.

## **RECOMMENDATION Refuse**

1) The proposed change of use from dwellinghouse (Class C3) to purposes falling within Class C3 (dwelling house) or Class C4 (house in multiple occupation) would fail to support a mixed and balanced community in the area by resulting in an imbalance of such uses. The proposal is therefore contrary to Policy PCS20 of the Portsmouth Plan and the adopted Houses in Multiple Occupation Supplementary Planning Document.

### 2) PRO-ACTIVITY STATEMENT

Notwithstanding that the City Council seeks to work positively and pro-actively with the applicant through the application process in accordance with the National Planning Policy Framework it was not considered that the harm arising from the proposal could be overcome and the application has been refused for the reasons outlined above.

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# **02**

**15/01417/FUL**

**WARD: ST JUDE**

**10-14 GROVE ROAD SOUTH SOUTHSEA PO5 3QT**

**CHANGE OF USE FROM RETAIL (A1 CLASS) TO RESTAURANT (A3 CLASS)**

#### **Application Submitted By:**

Martin Critchley Architect  
FAO Mr Martin Critchley

#### **On behalf of:**

L.C. Isted Trust  
FAO Mr R Isted

**RDD:** 1st September 2015

**LDD:** 29th October 2015

### **SUMMARY OF MAIN ISSUES**

The application is being considered by the Planning Committee at the request of Councillor Symes.

The key issues in this application are whether the principle of the change of use to a Class A3 use is acceptable in this location; whether the proposal would be likely to result in any significant loss of residential amenity; and, whether the change of use would be likely to preserve or enhance the character and appearance of 'Owen's Southsea' Conservation Area.

#### **The Site and Surroundings**

The application site is located on the corner of Merton Road and Grove Road South and comprises a single storey, flat roofed building (circa 1920's, 200m<sup>2</sup>) with a predominantly glazed frontage onto Grove Road South. The property falls within 'Owen's Southsea' Conservation Area and is close to a number of listed and locally listed buildings. It is currently being occupied by 'Southsea Motor Factors', a Class A1 retail use (selling vehicle parts). Also within the applicants ownership is a large two storey house to the rear (east) which is currently occupied by 8 unrelated individuals as a House in Multiple Occupancy and 8 Grove Road South, an abutting

unit currently in Class A5 takeaway use with residential above. The site lies within the indicative floodplain identified at risk of flooding (zone 2).

## **The Proposal**

The application seeks planning permission for a change of use from retail (Class A1) to restaurant (Class A3). The applicant does not currently have a particular end-user in mind and as such the application does not include specific details with respect to cooking extraction/ventilation details, layout or opening hours. There is no on-site parking provision associated with this application.

## **Planning History**

The relevant planning history includes:

B\*22457/H - Change of use from shop to showroom for the sale of new and used motor vehicles - conditional permission 9/4/70

B\*22457/G - Change of use of the shop from retail shop to office for specialised computerised data preparation work - conditional permission 25/9/69

B\*22457/F - Use of the shop premises as a licensed social club - refused 27/2/69

B\*22457/C - Use of ground floor accommodation as a registered licensed club - refused 3/5/62

## **POLICY CONTEXT**

The relevant policies within the Portsmouth Plan would include:  
PCS23 (Design and Conservation).

In addition to the policies above, the aims and objectives of the National Planning Policy Framework and the Owens Southsea Conservation Area Guidelines are relevant.

## **CONSULTATIONS**

### **Environmental Health**

This consultation is with regard to the potential impact on the amenity of the neighbouring residential use from the proposed change of use.

The area in question is mixed residential/commercial although this address marks the northernmost limit of the local commercial district. Directly to the south at 8 Grove Road South there is an A5 takeaway, and premises south until Marmion Road is reached include estate agents and a beauty/nail salon.

Very little detail concerning the proposal is included in the application. No detail is provided for the location and size of the kitchen, the number of covers, any proposed kitchen extraction equipment or other equipment, or hours of opening. A design, access and heritage statement is included in the application. This details the applicant's 'intentions' with regard to pollution. The applicant intends to "reduce the likelihood of noise from the new development affecting nearby noise sensitive buildings" but there is no mention of how this is to be achieved. No mention is made of potential issues with kitchen odours. Section 12.5 refers to access to apartments but I am unaware of any apartments other than perhaps the residential use at 10 Grove Road South which I was under the impression was a different property and not connected to the application site.

The property itself is single-storey with a flat roof. The options for the location of kitchen extraction ducting and other equipment appear to be limited only to the flat roof, with access to

the roof by the ducting going through the roof. The property to the east of the application site (10 Grove Road South) is residential and is two-storey. Several windows have a view to the west over the flat roof. The introduction of plant and a kitchen extraction system onto the roof is likely to impact on the amenity of the residents at 10 Grove Road South, through both noise and odour. A technical solution is possible to control the noise and odour impacts from the kitchen operations although that solution may not be acceptable on other grounds, such as visual impact. Any technical solution will need to be carefully designed, with the location of the plant/equipment being crucial.

Should you be minded to grant planning permission I recommend that the following conditions be applied:

Prior to the commencement of the A3 use, equipment shall be installed to suppress and disperse odour and fumes emitted from cooking operations arising from this use. Prior to installation, details of the proposed equipment shall be submitted to the local planning authority for approval. Approved equipment shall then be installed and maintained in accordance with the manufacturer's recommendations.

Prior to the installation of the proposed kitchen extraction system 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.

Other than noise from the plant and equipment, there is also the potential for noise arising from the operation of the proposed restaurant to impact on the amenity of neighbouring uses. Potential impacts include noise from customers arriving and departing, noise from entertainment provided within the restaurant and noise from customers outside the premises, smoking for example.

No specific opening hours have been applied for. The two closest A3 premises are Churchills at 25 Marmion Road and at 6 Palmerston Road, both to the south of the proposed business location. The premises at 6 Palmerston Road are conditioned to close at 23:00 hours and the premises at 25 Marmion Road are conditioned to close at 19:00 Sunday to Thursday and 22:00 on Friday and Saturday.

As mentioned above, the application site represents the northern-most edge of the local commercial district and, as such, is bound to the north, east and west by residential use. A decision concerning the opening hours should reflect this relationship.

## **REPRESENTATIONS**

16 letters (2 from one address) and one petition (with 61 signatures) of objection have been received expressing the following concerns:

- \* do not need another eating place in Southsea (already have 50 in area)
- \* will create parking problems; parking already limited due to double yellow lines; indiscriminate parking could impede free flow of traffic and public transport; patrons of restaurant likely to park for longer than shoppers
- \* patrons of restaurant may use Holmbush Court parking area
- \* increased late night noise (possibly including music) and disturbance
- \* increase in litter in area
- \* smokers/drinkers may congregate on narrow pavement outside premises
- \* inappropriate use in this residential area
- \* proximity to residential properties including those at Holmbush Court (a retirement complex), Admiral Square and Grove Road South
- \* cooking odours



- \* proposal is not consistent and undermines the Southsea Town Centre Area Action Plan (AAP) (Policy STC4) as outside the area where new restaurants and cafes are encouraged i.e. Osborne Road and Palmerston Road South and as such would create a poor precedent; new restaurant away from AAP could create problems of monitoring and control for police force
- \* the short commercial area at the southern end of Grove Road South has no licensed premises - concern that a new restaurant would be licensed and would turn into a drinking establishment that serves food which would be inappropriate in a residential area
- \* whilst a genteel bistro or tearoom might suit the building and neighbourhood, there is almost no way to control the nature of the restaurant and its clientele once established - a loud and garish establishment would harm the heritage environment and be detrimental to character of 'Owen's Southsea' conservation area
- \* would greatly affect existing Chinese takeaway business at 8 Grove Road South
- \* 2 previous refusal for licenced social club were refused in 1962 and 1969 - still inappropriate
- \* a change to a restaurant may not necessarily improve the decorative condition of the shop

## **COMMENT**

The key issues in this application are whether the principle of the change of use to a Class A3 use is acceptable in this location; whether the proposal would be likely to result in any significant loss of residential amenity; and, whether the change of use would be likely to preserve or enhance the character or appearance of the 'Owen's Southsea' Conservation Area or would preserve setting of nearby listed buildings.

Whilst it is noted that the application site lies within an indicative flood risk area it is not considered that users of the building or its contents would be rendered any more vulnerable to the risk of flood inundation than at present.

## **Principle**

The main policy consideration is PCS23 of the Portsmouth Plan which seeks development that relates well to the city's conservation areas, is appropriate in scale, layout and appearance in relation to the particular context, that any car parking and cycle storage should be secure, well designed and convenient and the protection of amenity and the provision of a good standard of living environment for neighbouring and local occupiers as well as users of the development.

The application site lies outside of the Southsea Town Centre Area Action Plan which covers the whole town centre extending from Osborne Road to Marmion Road including Palmerston Road, Clarendon Road and Kent Road. As such, whilst Policy STC4 seeks to encourage new restaurants and cafes to locate in Osbourne Road and Palmerston Road South this application must be considered on its own merits.

The loss of a retail unit outside of the defined boundaries of the Southsea Town Centre (Policy STC2) raises no site specific policy objection. A restaurant use is potentially an acceptable use within a mixed retail (A1), takeaway (A5) and residential area such as this subject to appropriate safeguards to ensure the use does not result in any significant loss of residential amenity.

## **Residential Amenity**

The application site occupies the end units of a parade of shops and A5 uses, the southern part of which lies within the Southsea Town Centre boundary. Given that the application site has a retail use, daytime activity in and around the unit is already established and would not be dissimilar to that generated by a restaurant use. It is acknowledged that an evening operation of a restaurant use would introduce additional activity within this fringe area adjacent the town centre however opening hours could be imposed to reflect the proximity to residential properties. Closing times of 2200 hours daily would be reasonable in the context of this quieter location.

As this is a speculative approach, no extraction/ventilation or noise protection scheme has been put forward. The location of any kitchen or the proposed cooking processes have also not been identified. Given that this building is single storey, flat roofed, within a conservation area and close to residential properties and a number of listed buildings it would be essential to ensure an effective and visually sensitive solution to any such scheme. Therefore, in the absence of any specific details, it cannot be concluded that any necessary extraction system for odorous cooking processes would be acceptable in relation to the identified heritage assets. For this reason it is considered necessary to limit by condition the cooking processes to ensure no external flue and associated equipment is required. Any proposal to alter the cooking processes would need to be the subject of a separate application to properly assess the implications of any external works.

The application site offers no on-site parking provision. It is considered unlikely that the proposal would encourage indiscriminate parking as patrons of a restaurant use would generally not be making quick visits of the type more associated with A5 (takeaway) uses. Planning permission would be required for a change of use to Class A5 however a condition to prevent an ancillary A5 use is necessary to address such concerns.

### **'Owen's Southsea' Conservation Area and Nearby Listed Buildings**

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'.

A restaurant use of this building, subject to the conditions recommended to ensure an acceptable level of evening activity and a sensitive method of dealing with any extraction flue and associated equipment, is considered to preserve the character and appearance of 'Owen's Southsea' Conservation Area. The building's frontage is currently in need of repair (e.g. some glazing requires replacement) and these improvements would serve to enhance the buildings contribution to the appearance of this conservation area. Alterations to the shop front beyond like-for-like repair would require planning permission in their own right.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that decision makers 'shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'.

Whilst there are listed and locally listed buildings nearby within Grove Road South and Merton Road, given that there are no external alterations proposed to the building, the proposed use is considered to have an acceptable relationship with these heritage assets and would preserve their setting.

### **Conclusion**

The proposal is considered in accordance with policy PCS23 of the Portsmouth Plan and is capable of support subject to the recommended conditions.

**RECOMMENDATION**

**Conditional Permission**

## **Conditions**

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 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: Site Plans 0939-2010 and Ground Floor Plan 0939-1010 received 3/9/15.
- 3) The premises shall be closed and vacated by the public between 2200 hours and 0830 hours daily.
- 4) Prior to the restaurant (Class A3) use hereby permitted being brought into use, refuse and recyclable materials storage facilities shall be provided in accordance with a detailed scheme to be submitted to and approved by the local planning authority in writing, and those facilities shall thereafter be retained for the continued use by the restaurant for that storage at all times.
- 5) No hot food take-away service or home delivery service shall operate from the premises.
- 6) No cooking processes other than the preparation of hot beverages; toasting of bread or heating of food in a microwave oven, domestic oven or domestic cooking device shall be undertaken within Class A3 premises hereby permitted.

### **The reasons for the conditions are:**

- 1) To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) To protect the amenities of the occupiers of the adjoining and nearby residential properties and the character of the Owens Southsea Conservation Area in accordance with Policy PCS23 of the Portsmouth Plan.
- 4) To ensure that adequate provision is made for the storage of refuse and recyclable materials in accordance with policy PCS23 of the Portsmouth Plan.
- 5) To protect the amenities of the occupiers of nearby properties and in the interests of highway safety, in accordance with Policies PCS23 of the Portsmouth Plan.
- 6) In the interests of preserving the character and appearance of 'Owen's Conservation Area' in accordance with policy PCS23 of the Portsmouth Plan in the absence of any details regarding any external extraction flue or associated extraction and ventilation system to deal with the dispersal of cooking odours.

### **PRO-ACTIVITY STATEMENT**

Notwithstanding that the City Council seeks to work positively and pro-actively with the applicant through the application process in accordance with the National Planning Policy Framework, in this instance the proposal was considered acceptable and did not therefore require any further engagement with the applicant.

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**03**

15/01422/FUL

WARD: EASTNEY & CRANESWATER

**48 FESTING GROVE SOUTHSEA PO4 9QD**

**CHANGE OF USE FROM GUEST HOUSE (CLASS C1) TO 9 BED HOUSE IN MULTIPLE OCCUPATION (SUI GENERIS)**

**Application Submitted By:**

Allen Planning Ltd  
FAO Mr Tony Allen

**On behalf of:**

Mr G Barrett

**RDD:** 1st September 2015

**LDD:** 28th October 2015

**SUMMARY OF MAIN ISSUES**

The main issues to be considered in the determination of this application are whether the proposal is acceptable in principle and whether it would have a detrimental impact on the living conditions of adjoining and nearby residents. Other considerations are whether the proposal complies with policy requirements in respect of SPA mitigation, car and cycle parking.

**The Site**

This application relates to a two-storey (with accommodation within the roof space and a basement) mid-terraced property located to the southern side of Festing Grove, just to the east of its junction with Bristol Road. The property is set back from the highway by a small front forecourt and benefits from a rear access to the garden via a narrow alleyway. Currently the property is in use as a guesthouse comprising eight bedrooms, one of which is used occasionally by staff. The surrounding area is predominantly residential in character with similar terraced properties.

**The Proposal**

Planning permission is sought for the change of use from a guest house (Class C1) to 9 bedroom House in Multiple Occupation (sui generis).

**Planning History**

Planning permission was granted in July 2015 (ref.15/00649/FUL) for the change of use from a guest house (Class C1) to form a single dwellinghouse (Class C3). This permission has not been implemented but remains extant.

Planning permission was granted in 1982 (ref. A\*31978/A) for the change of use to guesthouse and erection of a ground floor extension to provide two additional bedrooms for private use.

Planning permission was granted in 1982 (ref. A\*31978/B) for the provision of dormer rooms to form additional bedrooms.

Planning permission was granted in 1984 (ref. A\*31978/C) for a dormer extension to form an additional bedroom.

## **POLICY CONTEXT**

In addition to the aims and objectives of the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS13 (A greener Portsmouth), PCS16 (Infrastructure and community benefit), PCS17 (Transport), PCS20 (Houses in Multiple Occupation (HMOs)), and PCS23 (Design and Conservation). The Houses in Multiple Occupation SPD, the Parking Standards SPD and the Solent Special Protection Areas SPD are also relevant to the proposed development.

## **CONSULTATIONS**

### **Contaminated Land Team**

Comments not received at the time of writing.

### **Highways Engineer**

Comments not received at the time of writing.

## **REPRESENTATIONS**

At the time of writing nine letters of representation had been received from local residents and Councillor Luke Stubbs (Ward Member for Eastney & Craneswater). Their objections can be summarised as follows: (a) there are currently too many HMOs within the surrounding area (Nos. 42, 44, 52 & 56 Festing Grove) and No.46 has been converted to flats; (b) reduction of housing stock for families; (c) increased noise & disturbance and anti-social behaviour (d) HMOs generate more refuse which can become an eyesore and attracts foxes; and (d) proposal will exacerbate parking issues within the area.

## **COMMENT**

The main issues to be considered in the determination of this application are whether the proposal is acceptable in principle and whether it would have a detrimental impact on the living conditions of adjoining and nearby residents. Other considerations are whether the proposal complies with policy requirements in respect of SPA mitigation, car and cycle parking.

### **Principle of HMO Use**

Policy PCS20 of the Portsmouth Plan states that applications for changes 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 Houses in Multiple Occupation SPD provides further detail on how this policy will be implemented and how the City Council will apply this policy to all planning applications for HMO uses.

In identifying the area surrounding the application property, 6 of the 58 properties within a 50 metre radius were initially identified as being in use as HMOs. This was based on records held within the City Council's HMO database which is made up of records of properties with planning permission for Class C4 use, sui generis HMO use and mixed C3/C4 use, records of Class C4 HMOs submitted to the council by property owners, HMOs that have been issued a licence by the council and council tax records. Whilst this is the best available data to the Local Planning Authority 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.

Following a review of the properties initially identified as HMOs within the 50 metre radius, it has been established that two of these properties (Flat 2, Middle Front 41 Salisbury Road and 55

Salisbury Road) were not in use as HMOs. Subsequently, the 'count' data has been modified to reflect this new information and the number of HMOs as a percentage calculated as 6.70% (4/58), rising to 8.62% (5/58) if permission was granted. On the basis that the granting of planning permission would increase the proportion of HMOs to less than 10%, it is considered that the community is not already imbalanced by a concentration of HMO uses and this application would not result in an imbalance of such uses. The proposal is therefore, considered to be acceptable in principle. No information has been provided to suggest that any other of the properties identified within the 50m radius are in lawful use as HMOs but have been omitted from the 'count data'.

Whilst representations refer to a reduction of housing stock available for families, it should be noted that the property currently benefits from a lawful use as a guesthouse and the proposal would not result in the net loss of a family dwelling. It is accepted that there is a need for further family units within the city as highlighted within Policy PCS19 of the Portsmouth Plan and the property currently benefits from an extant unimplemented permission for use as a single dwellinghouse (Class C3). A developer cannot be obliged to implement a permission when it has been given and it would not be reasonable to assume that the refusal of the current application would result in implementation of the extant C3 permission. Therefore, such a consideration should not be regarded as material to determining this application. Policy PCS20 of the Portsmouth Plan highlights an identified need for further HMOs within the city.

### **Impact on Residential Amenity**

In considering potential impact on residential amenity, regard must be given to the lawful planning use of the property as a guesthouse (Class C1) with up to 8 bedrooms. Whilst it is accepted that the guesthouse is unlikely to operate at full capacity throughout the year, its use would inevitably result in a level of activity that would be more intensive than a typical family dwellinghouse.

On that basis, it is considered that use of the property as a 9 bedroom HMO would not result in a demonstrably greater level of activity, noise or disturbance that could be associated with the existing use of the site as a guesthouse.

### **Car Parking and Cycle Storage**

The application site does not benefit from any off-street parking and none is proposed as part of this application (the constraints of the site are such that none can be provided). The Parking Standards SPD sets out that a sui generis HMO should be served by two off-street spaces. However, the existing lawful use of the property as a guesthouse would have attracted its own demand for parking, particularly having regard to its distance from the city centre and nearest railway station. On that basis, it is considered that the proposed use is unlikely to result in a significant additional demand for parking beyond that associated with the existing lawful use.

Whilst the demand for parking is unlikely to increase, given the residential nature of the proposal, it is considered that future occupants are more likely to use public transport or bicycles. Therefore, to encourage the use of more sustainable modes of transport to the car, it is considered that a suitably worded planning condition requiring the provision of adequate bicycle storage facilities would be both necessary and reasonable.

Having regard to the existing lawful use of the premises as a guesthouse, it is considered that the demand for refuse and recyclable storage facilities would not be significantly different.

### **SPA Mitigation**

The Conservation of Habitats and Species Regulations 2010 [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.

The Solent Special Protection Areas Supplementary Planning Document (SPD) was adopted in April 2014. It has been identified that any development in the city which is residential in nature will result in a significant effect on the Special Protection Areas (SPAs) along the Solent coast. The development proposed is not necessary for the management of the SPA. Paragraph 3.3 of the SPD states: 'Mitigation will generally not be sought from proposals for changes of use from dwellinghouses to Class C4 Houses in Multiple Occupation (HMOs) as there would not be a net increase in population. A change of use from a Class C4 HMO or a C3 dwellinghouse to a sui generis HMO is considered to represent an increase in population equivalent to one unit of C3 housing, thus resulting in a significant effect and necessitating a mitigation package to be provided'. The SPD sets out how development schemes can provide a mitigation package to remove this effect and enable the development to go forward in compliance with the Habitats Regulations. It is however, noted that the lawful use of the property is not currently as a dwellinghouse.

Therefore, based on the methodology in the SPD, an appropriate scale of mitigation would be calculated as £348 (2 x £174, guesthouse to dwellinghouse (C3) or HMO (C4) + dwellinghouse (C3) or HMO (C4) to sui generis HMO). The applicant has agreed to provide this mitigation through an agreement under S111 of the Local Government Act. The level of mitigation which will be provided is considered sufficient to remove the significant effect on the SPAs which would otherwise have been likely to occur.

**RECOMMENDATION A:** That delegated authority be granted to the Assistant Director of Culture & City Development to grant Conditional Permission subject to first securing a planning obligation or an agreement for payment of a financial contribution of £348 to mitigate the impact of the proposed residential development on the Solent Special Protection Areas and subject to no representation raising new material planning issues.

**RECOMMENDATION B:** That delegated authority be granted to the Assistant Director of Culture & City Development to refuse planning permission if the agreement referred to in Recommendation A has not been secured by 28th October 2015.

## Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 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: Site Location Plan, Block Plan, Proposed Ground Floor Plan and Proposed Upper Floor Plans.
- 3) Prior to the first occupation of the property as a House in Multiple Occupation (sui generis), secure and weatherproof bicycle storage facilities shall be provided in accordance with a detailed scheme (to include materials, size, appearance and security) to be submitted to and approved in writing by the Local Planning Authority. The facilities shall thereafter be retained.

## The reasons for the conditions are:

- 1) To comply with Section 91 of the Town and Country Planning Act 1990.

2) To ensure the development is implemented in accordance with the permission granted.

3) To ensure appropriate provision is made for cyclists to promote and encourage alternative and sustainable modes of transport to the private car, in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.

**Pro-activity Statement:**

Notwithstanding that the City Council seeks to work positively and pro-actively with the applicant through the application process in accordance with the National Planning Policy Framework, in this instance the proposal was considered acceptable and did not therefore require any further engagement with the applicant.

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