

Agenda item:

Decision maker: Planning Committee - 30 May 2018
Subject: Summary of relevant planning appeal decisions May 2018
Report by: Claire Upton-Brown
 Assistant Director City Development
Wards affected: Eastney & Craneswater, Nelson and Charles Dickens
Key decision (over £250k): No

1. Purpose of report

To advise the Planning Committee on the outcome of a selection of recent appeal decisions to May 2018.

2. Recommendations

That individual Inspectors decisions are noted.

3. Summary

Appeal Site	Proposal	PCC Decision	Inspectors Decision	Costs
167-169 London Road, Hilsea, Portsmouth, PO2 9AE (Nelson)	Conversion of ground floor retail unit to provide 2no. 2 bed dwellings and 1no. 1 bed dwelling with external alterations to include removal of canopy and replacing shopfront with new windows and doors	Officer Recommendation - Conditional Permission Committee Decision - Refusal	Allowed-Permission Granted	N/A
Cornerstone House, 120 London Road, Hilsea, Portsmouth PO2 0NB (Nelson)	Conversion of part of ground floor to create 2 no. 1 bed self-contained flats and an	Officer Recommendation - Conditional Permission	Allowed-Permission Granted	N/A

	enlargement to the cycle storage area, with external alterations to include installation of new windows and doors	Committee Decision - Refusal		
103 Manners Road, Southsea, Portsmouth, PO4 0BD (Central Southsea)	Change of use from Class C4 (house in multiple occupation) to house in multiple occupation for seven persons (Sui Generis)	Officer Recommendation - Conditional Permission Committee Decision - Refusal	Allowed-Permission Granted	Dismissed

4. Decisions in Focus

167-169 London Road, Hilsea, Portsmouth, PO2 9AE (Nelson)

The main issues for the Inspector were the effects of the proposal on (a) the safety of the users of the surrounding highway network and (b) the living conditions of future occupiers of the flats, having regard to light.

The Inspector acknowledged the concerns of the Council's Highway Engineer but concluded that having regard to the unrestricted use of the premises as a shop and the location of the site within easy walking distance of shops and services the proposal would not place significant additional pressure on the surrounding highway network:

"The Council's Highway Engineer has highlighted issues of the lack of vehicle parking in the evenings and weekends in the surrounding area. Photographs of illegally parked vehicles obstructing junctions and visibility at weekends have been provided, along with details of Penalty Charge Notices served within 200m of the site. However, the lawful use of the premises is a shop and it is located within the designated Secondary Area of the North End District Centre under the Portsmouth Plan (PP) 2012. In the absence of any specific planning restrictions on the hours of operation, there could be an alternative form of retail, carried out without the need for planning permission. Such a use could place equivalent or even greater pressure on the surrounding highway network than the existing development through longer operating hours. Given the site's lawful use and location with the district centre, considerable weight is placed upon this.

Furthermore, the development would be within easy walking distance of services and facilities, including shops for day to day needs and bus stops for public transport to other parts of the city. Such a consideration would reduce the need for the occupiers of the proposed development to have a private car and the justification for four vehicle spaces,

especially in relation to the two proposed one bedroom flats. In this respect, the Appellant has indicated that only two occupiers of the 7 flats above the ground floor retail unit own vehicles which supports this view.

For all these reasons, the development would not add significantly to the highway problems in the area and would not result in harm to the safety of the highway users in the vicinity. Accordingly, the proposal would comply with PP policy PCS17".

In terms of residential amenity the inspector opined that: "Much of the ground floor of the unit incorporates a glazed shopfront and the residential units would be single aspect facing south and east. The units have been laid out with kitchen and bathroom facilities to the rear, and bedroom and living/dining room to the front. The existing shopfront would be replaced with rendered walling and windows serving the rooms.

By reason of the planned layout, the important living areas of flats would be closest to the windows and would receive adequate daylight and sunlight given their size and number. The bathroom and kitchen areas would receive considerably less light but these areas could be provided with supplemental internal lighting. Typically, residents would spend less time in these areas and thus, their living conditions would not be adversely affected. For all these reasons, the proposal would comply with PP policy PCS23".

Cornerstone House, 120 London Road, Hilsea, Portsmouth PO2 0NB (Nelson)

In a similar application to that above, the main issues for the Inspector were the effects of the proposal on (a) the safety of the users of surrounding highway network and (b) the living conditions of the future occupiers of Apartment 2 (the larger of the two proposed residential units), having regard to light.

The Inspector again acknowledged the concerns of the Council's Highway Engineer but concluded that it had not been demonstrated that any additional vehicle parking requirement associated with the proposed development would harm the safety of highway users in the vicinity of the application site:

"On both London Road and Stubbington Avenue, vehicle parking directly outside of the appeal site is prohibited. There is street parking available further along Stubbington Avenue and residential roads leading off this road. At the time of my site visit around midday, street parking in these areas was difficult although this represents only a snapshot in time. The Portsmouth Parking Supplementary Planning Document (SPD) 2014 sets out an expected amount of two parking spaces for this development which cannot be provided due to the constraints of the site. The Highway Authority has objected to the effect of the parking space shortfall on the highway safety of users in the area.

However, the supporting census data underpinning the SPD parking standards is based on households with cars and excludes households without cars. In this instance, the accommodation to be provided is single bedroom and in a location within easy walking distance of services and facilities, including shops for day to day needs, and bus stops for public transport to other parts of the city. Therefore, it has not been demonstrated that a need of two additional car parking spaces would be required and it would be likely that only

an additional vehicle parking space would be required at most in accordance with the Appellant's analysis of the census data.

It has been agreed that the surrounding area experiences a high degree of parking stress, including weekends and evenings. Given the residential nature of the proposal, parking by future residents would be likely to be during evenings and weekends. However, an additional car parking requirement of one space would not materially worsen this situation. Photographic evidence has also been produced which shows that nearby junctions are not blocked by indiscriminate parking during the evening on certain dates. The Council also acknowledges that indiscriminate parking can be dealt with separately as traffic infringements which would act as a deterrent. In built-up residential areas, residents may not be able to park close to their properties at certain times but this is a matter of inconvenience rather than detriment to highway safety.

For all these reasons, it has not been demonstrated that any additional vehicle parking requirement would harm the safety of highway users in the vicinity and therefore, the proposal would comply with policy PCS17 of the Portsmouth Plan (PP) 2012".

In terms of residential amenity the inspector opined that: *"There would be a frontage doorway for apartment 2 and the existing large glazed panels would be replaced with part glazing and part UPVC grey panels. This would be similar to the other adjacent converted units within Cornerstone House. By reason of Cornerstone House being a single aspect building, the rear kitchen and bathroom of this larger unit would have no windows serving it and the development would face north.*

However, a daylight technical report details that three of the four rooms of the apartment would receive adequate natural daylight. The fourth room, a kitchen, would not receive any significant natural light but this would have supplementary lighting. The technical report includes detailed modelling and calculations following Building Research Institute guidelines and methodology taking into account room area and window dimensions and therefore, considerable weight is given to its findings and conclusions. Whilst the lighting arrangement to the kitchen is not ideal, the report show that the apartment as a whole would receive adequate daylight.

For all these reasons, the living conditions of the occupiers of apartment 2 would not be harmed and the proposal would comply with PP policy PCS23".

103 Manners Road, Southsea, Portsmouth, PO4 0BD (Central Southsea)

The main issues for the Inspector were are (a) the effect of the proposal on the living conditions of future residents of the HMO, having regard to communal internal space provision and (b) whether there would be an imbalance of HMOs in the surrounding community.

The Inspector highlighted that since the refusal of the planning application, the Council's revised Houses in Multiple Occupation Ensuring Mixed and Balanced Communities Supplementary Planning Document (SPD) 2017 had been adopted and form part of the reasoning.

In terms of the balance of uses, the Inspector acknowledged the City Council's claims that similar proposals have failed to acknowledge the cumulative impact of incremental increases in occupation within HMOs and the impact intensification on adjoining residents and local communities. However, it was concluded that the City Council had not demonstrated that cumulative increases in numbers of residents within HMOs have occurred or could occur in the area surrounding the appeal site and as such the Inspector was able to assess whether incremental changes are having a noticeable and harmful effect on the living conditions of the community's residents:

"Under the revised SPD, a change the use of Class C4 or mixed C4/C4 use to a HMO in Sui Generis use, will be refused where the concentration of HMOs already exceed the 10% threshold. The City Council's HMO database suggests that about 40.7% of properties within in a 50m radius of the application site are in use as HMO's and other roads have a higher concentration. It is indicated that previous decisions on similar proposals have failed to acknowledge the cumulative impact of incremental increases in occupation within HMOs and the impact intensification on adjoining residents and local communities. In this regard, there have been neighbour objections commenting on noise and disturbance, and inadequate vehicle parking.

Within the area, there would be an adverse impact on the community in terms of being unneighbourly if a significant number of the existing HMO's were to increase their number of residents. However, it has not been demonstrated that cumulative increases in numbers of residents within HMOs have occurred or could occur in the area surrounding the appeal site. Consequently, it is not possible to assess whether incremental changes are having a noticeable and harmful effect on the living conditions of the community's residents. Every proposal has to be considered on its planning merits based on the particular circumstances and for all these reasons, a broad concern of this nature does not justify withholding permission in this case.

One neighbour response specifically comments on noisy parties and disturbances from this property but there is no evidence that a further resident would increase the possibility of noisy parties and disturbances. Such unneighbourly activities are also not confined to just HMOs.

The appeal site does not benefit from any off-street vehicle parking and none can be provided. Nevertheless the property is already in use as HMO for up to six persons and lies in close proximity to local shops, services and transport facilities. Given this, increased demand for parking space would not be significant especially as only one additional HMO bedroom is proposed. It has not been demonstrated that the surrounding area is at full parking capacity and the Council's highway officer has confirmed no objection on vehicle parking grounds. I appreciate that parking distant from a property can be inconvenient for residents but there is no detailed evidence of how common this problem is. For all these reasons, the proposal would be acceptable in highway terms.

In summary, the proposal would not result in an imbalance in housing stock and harm to the local community for all these reasons. Accordingly, it would comply with policy PCS20 of the Portsmouth Plan, which states that applications for changes of use to a HMO will only be permitted where the development would not create an imbalance".

In terms of internal living conditions the Inspector highlighted that the adopted SPD only provided guidance and on the basis the property already accommodated six individuals, it was not considered that one additional person would significantly reduce the quality of space available for the existing occupiers or result in adverse living conditions for the additional resident:

"The submitted plans show the property having a lounge and kitchen on the ground floor, a bathroom/shower room at first floor and an ensuite for a bedroom on the second floor. In comparison with the existing layout, the main change has been the subdivision of the existing larger second floor bedroom 6 into two smaller rooms. The lounge, kitchen and sanitary facilities would serve up to 7 occupants.

The SPD requires a good standard of living accommodation for future occupiers and the communal facilities would be undersized in relation to the required SPD amenity standards. The Council has also indicated that lounge, kitchen and sanitary facilities appear cramped based on photographic images, citing a lack of storage and useable worktop space. Nevertheless, the SPD provides guidance only and the lounge, kitchen and sanitary rooms and facilities already serve six residents under the current HMO. Having assessed the plans and images myself, an additional person would not significantly reduce the quality of space available for the existing occupiers or result in adverse living conditions for just one additional new resident.

For these reasons, the development would not harm the living conditions of future residents of the HMO for the reasons indicated and would comply with policy PCS23 of the Portsmouth Plan 2012, which amongst other matters, requires the protection of amenity and the provision of a good standard of living environment for residents of development".

Costs Decision-

The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. In this instance whilst the Inspector disagreed with the views of the City Council, it was considered that the Council had produced appropriate sufficient evidence to substantiate its reasons for refusal and provided objective analysis. As a result the application for an award of costs against the City Council was dismissed.

4. Reason for recommendations

For information to the Planning Committee.

5. Equality impact assessment (EIA)

None.

6. Head of legal services' comments

The report is for information only.

7. Head of finance’s comments

The report is for information only.

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 Signed by:

Appendices:

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:

Title of document	Location
Planning application: 17/00111/FUL (167-169 London Road, Hilsea, Portsmouth, PO2 9AE)	Planning Services
Appeal decision: APP/Z1775/W/17/3179828 (167-169 London Road, Hilsea, Portsmouth, PO2 9AE)	Planning Services
Planning application: 17/00338/FUL (Cornerstone House, 120 London Road, Hilsea, Portsmouth PO2 0NB)	Planning Services
Appeal decision: APP/Z1775/W/17/3188141 (Cornerstone House, 120 London Road, Hilsea, Portsmouth PO2 0NB)	Planning Services
Planning application: 17/00178/FUL (103 Manners Road, Southsea, Portsmouth, PO4 0BD)	Planning Services
Appeal decision: APP/Z1775/W/17/3187443 (103 Manners Road, Southsea, Portsmouth, PO4 0BD)	Planning Services
Costs Appeal decision: APP/Z1775/W/17/3187443 (103 Manners Road, Southsea, Portsmouth, PO4 0BD)	Planning Services