

PLANNING COMMITTEE

MINUTES OF THE MEETING of the Planning Committee held on Wednesday, 17 July 2019 at 1.00 pm in the 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 Hugh Mason (Chair)
Judith Smyth (Vice-Chair)
Matthew Atkins
Steve Pitt
Lee Hunt
Terry Norton
Luke Stubbs
Claire Udy
Frank Jonas (Standing Deputy)

Welcome

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

Guildhall, Fire Procedure

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

62. Apologies (AI 1)

Apologies for absence had been received from Councillor Donna Jones (who was represented by Standing Deputy Councillor Frank Jonas) and Suzy Horton. Councillor Steve Pitt apologised for his late arrival, and Councillor Jonas apologised that he would need to leave before the end of the meeting.

63. Declaration of Members' Interests (AI 2)

Councillor Matthew Atkins took legal advice and as he lives near 110 Stubbington Avenue he withdrew from the room and did not participate in this item.

64. Minutes of Previous Meeting - 19 June 2019 (AI 3)

RESOLVED that the minutes of the previous meeting held on 19 June 2019 be approved as a correct record, to be signed by the Chair of that meeting.

65. Update on previous applications and nitrates (AI 4)

Nitrates

Sim Manley, Development Manager, reported that there would be a regular update at committee on the situation on nitrate neutrality, due to local authorities not being able to issue decisions where applications generated an overnight stay. He stressed that officers were working hard to find a way forward and were in discussions with Natural England on this, where it can be proven that an improvement in water quality had taken place.

It was reported that in the appeal decision for 32 Norman Road the Inspector had dismissed the appeal on nitrate grounds.

Discussions were also taking place on a regional level, through PUSH, for a joint strategy to be in place with neighbouring authorities by 15 October 2019, with the hope that decisions would start to be issued and PUSH was involved in lobbying the government on this issue. Water efficiency measures in Portsmouth City Council's own housing stock was also being explored, at no cost to tenants and costs to be recouped from developers was also being investigated.

The legal position was further explained with advice having been sought from Queen's Counsel on the need to listen to statutory consultees (Natural England) and there should be compelling reasons not to. It was known that not all councils were adopting the same stance and if there were further developments further legal advice could be sought from QC. The Chair summed up that in the meantime PCC were seeking to look at mitigating provisions or for developments to be nitrate neutral for these to be progressed. This had also been raised through the Local Government Association (LGA).

Legal Updates

Kieran Laven, Legal Adviser to the Committee, reported that a Judicial Review had been lodged to challenge the Inspector's decision (in favour of PCC's grounds for rejecting an HMO) on 13 Wyndcliffe Road. There would be a further update at the meeting in August.

On procedural matters Kieran Laven reiterated his previous advice that a motion to defer a decision should be considered before other main motions.

Chair's Notices

Councillor Hugh Mason reported:

- i) That the intention would be for the final item to be considered in open session if members agreed not to refer to matters within the exempt appendix.
- ii) There would be a Local Plan cross-party working group taking place immediately following the committee meeting.
- iii) A training workshop would be taking place the following day which he urged members to attend.
- iv) A special Planning Committee would be taking place on 24th July at 2pm regarding an application for Kendall's Wharf.

Planning Applications

Deputations are not minuted in full; this meeting was livestreamed/webcast and can be viewed here:

<https://livestream.com/accounts/14063785/Planning-17Jul2019>

- 66. 19/00315/HOU -10 Driftwood Gardens Southsea PO4 9ND - Construction of single-storey rear extension incorporating balcony; construction of single-storey front extension connecting the main property to the garage (to facilitate the conversion of garage to a habitable room with associated external alterations) (AI 5)**

Following the officer's presentation deputations were heard:

- i) Joan Gale, objecting due to the impact on her neighbouring property;
- ii) Christopher Nicholls on behalf of the applicants, in support and explaining the changes to a family home.

Members' Questions

The level of potential overlooking from the garage conversion and what was and was not covered by permitted development rights were examined. It was reported that the nitrates issue was not applicable as this was an extension of an existing dwellinghouse.

Members' Comments

Some members had visited the site and it was not felt that there would be an undue loss of privacy, and there were limited considerations for the committee to decide on (due to permitted development rights). Members were mindful that this was not a sub-division of a property and therefore supported the officer's recommendation.

RESOLVED that conditional permission be granted, subject to the conditions outlined in the Assistant Director for City Development's report.

- 67. 19/00419/FUL - 24 Walden Road Portsmouth PO2 8PJ - Change of use from dwelling house (class C3) to purposes falling within class C4 (house in multiple occupation) or class C4 (dwelling house) (AI 6)**

There were no deputations on this application.

Members' Questions

Clarification was sought on the following matters:

The calculation of communal space with inclusion of the dressing room to make up the shortfall (with use of remote areas being accepted by Inspectors on other cases), the layout of the kitchen with a small dining area next to it and possible changes to doors, the size of bathroom provision. It was reported that it would be difficult to enforce a condition to ensure the dressing room was not used as a bedroom.

Members' Comments

Members were concerned by the living/dining room communal space not being up to PCC's standards and felt that the kitchen provision was not adequate for sharing by 5 adults. There was also concern regarding future use of the dressing room area.

RESOLVED that the application be refused for the following reason:
The proposed change of use of the building from a dwellinghouse C3, to a house in multiple occupation (Use Class C4) would, due to the provision of inadequate communal living/dining/kitchen space, fail to provide an adequate standard of living accommodation for future occupiers. The proposal is therefore contrary to Policies PCS23 and PCS20 of the Portsmouth Plan and the Houses in Multiple Occupation Supplementary Planning Document (July 2018).

68. 19/00712/FUL - 110 Stubbington Avenue Portsmouth PO2 0JG - Change of use from dwellinghouse (class C3) to purposes falling within class C3 (dwellinghouse) and class C4 (house in multiple occupation) (AI 7)

The presenting officer drew members' attention to the Supplementary Matters sheet which reported:

"In the officer report there has been an error in the HMO count data; the correct number of properties within the 50m radius is 59 and not 46. This in fact reduces the overall percentage of HMOs within the 50m radius. The HMO data that has been published on the Council's website is correct and the correct figures and calculations are included in this presentation.

*One additional representation has been received which highlighted 19 properties along Stubbington Avenue as potential HMOs.
4 of the 19 properties are outside of the 50 metre radius and therefore have not been investigated.*

Following investigation, council tax records indicate 14 of the remaining 15 properties are occupied by a maximum of two persons and therefore not considered to be potential HMOs.

Based on the above findings, there may be one additional HMO (116 Stubbington Avenue, First Floor Flat) which was not included in the initial data capture. It is not known if the property is an HMO and the Enforcement Team is investigating the matter. However, should this property transpire to be an HMO, it would increase the overall percentage to 3.3% and would not tip the balance beyond the 10% policy threshold."

The officer's recommendation remained unchanged.

Councillor Atkins withdrew from the room, making a declaration of interest, so did not participate in discussion of this item.

Members' Questions

It was asked whether use of an outside toilet (which was being used to offset the slight sub-standard internally on sanitary provision) was covered in HMO standards; the City Development Manager responded that the Supplementary Planning Document (SPD) for HMOs was silent on this and it was a marginal planning judgement. It was asked if the door opening could be changed to open into the conservatory; this could be a future solution but was not before the committee to determine. In examining the room sizes and occupancy levels (with some large

enough to accommodate 2 persons) it was noted that under the separate licensing regime up to 6 persons would be permitted.

Members' Comments

Members were not satisfied with the space standards and use of an outside toilet facility for shared accommodation.

RESOLVED that planning permission be refused (on the basis of the standard of accommodation) ¹.

69. 19/00764/FUL - 56 Shadwell Road Portsmouth PO2 9EJ - Change of use from class C3 (dwellinghouse) to purposes falling within class C3 (dwelling house) and/or class C4 (house of multiple occupation) (AI 8)

The presenting officer drew members' attention to the City Development Manager's Supplementary Matters list which reported:

"The representations section of the Committee Report refers to receipt of a petition of objection with 106 signatures. Another petition of objection with 92 signatures has also been received. Within this second petition, it does not raise any further issues to that of the previous petition.

Two individual representations of objection have also been received that reiterates previous concerns raised.

Also within the officer report there has been an error in the HMO count data. There are 66 properties which fall within the 50m radius. Despite this increase there are still no other HMOs within this 50m radius. Due to this, the calculated percentage has been reduced to 1.5%."

The officer's recommendation remained unchanged.

Deputations were heard from:

- i) Mr Smith's letter was read out by the Chair raising parking concerns in the area;
- ii) Valerie Russell spoke to object, representing residents who had signed a petition against the proposal regarding the impact on the neighbourhood and the unsuitability of the property for intensive shared use;
- iii) Dain Norman (with Chris Parke) spoke as the applicant's agent in support of the application for shared use by up to 5 professionals and explained the facilities.

Members' Questions

The space standards and occupancy of the bedrooms were examined; 3 bedrooms were for single occupancy only (clarity on the occupancy and space standards for rooms in HMO applications would be given in future reports). It was clarified that this application was for up to 6 persons sharing as for up to 10 this would require a separate application. It was reported that access to bicycle storage would be through

¹ This application was subsequently withdrawn by the applicant

the interior of the property. It was further reported that the shortfall on communal space was mitigated by some of the larger bedrooms sizes; members asked that policy on making up for a shortfall should be reflected in the updated SPD.

Members Comments

Members were concerned that 2 of the bedrooms did not meet the space requirements (for which the mitigation arrangements were inadequate), and the layout of a bedroom by the communal area was unsatisfactory. Some of the objections raised by local residents were not relevant as related to behaviour of future tenants and there were other enforcement measures available to deal with concerns such as noise and rubbish accumulation.

RESOLVED that permission be refused for the following reason:

The proposed change of use of the building from a dwellinghouse C3, to a house in multiple occupation (Use Class C4) would, due to the provision of inadequate communal living/dining/kitchen space, fail to provide an adequate standard of living accommodation for future occupiers. The proposal is therefore contrary to Policies PCS23 and PCS20 of the Portsmouth Plan and the Houses in Multiple Occupation Supplementary Planning Document (July 2018).

70. 19/00809/FUL - Fratton Park Frogmore Road Southsea PO4 8RA - Construction of replacement television camera gantry and installation of floodlighting to the South Stand (AI 9)

Legal advice was given that the Conservative members did not need to declare an interest due to Councillor Donna Jones' involvement in this application (as that was her own personal pecuniary interest).

Matthew Pickup, the applicant's agent, did not wish to add anything further following the presenting officer's thorough presentation, but offered to answer any questions that may arise.

There were no questions from members.

Members' Comments

Members were supportive of bringing the facilities at the stadium up to standard and recognised the importance of this for the club's future ambitions.

RESOLVED that conditional permission be granted, subject to the conditions outlined in the Assistant Director, City Development's report.

71. Exclusion of Press and Public (AI 10)

RESOLVED that under the provisions of Section 100A of the Local Government Act 1972 as amended by the Local Government (Access to Information) Act 1985, the appendix (legal advice) only of the report on the appeal on 14 Wisborough Road be deemed exempt under paragraph 5, Part 1 of Schedule 12a.

72. Appeal against non-determination at 14 Wisborough Road, Southsea PO5 2RE (AI 11)

Sim Manley, Development Manager, presented this report which sought the committee's position if they had been in a position to determine the application which had now gone to appeal for non-determination since it had previously been deferred. The view of the committee would then be passed to the Inspector and it was reported that the officer's recommendation was a changed position of refusal due to the nitrates issue which had since arisen.

The legal advice was that a hypothetical determination was being asked for and on the issue of nitrates he warned that to depart from the views of Natural England the committee should be satisfied with "cogent and compelling" reasons that it was "beyond scientific doubt" that no harm would occur to the Special Protection Areas. The exempt legal advice was circulated to the members of the committee only.

On balance the committee **RESOLVED that its position would be to refuse having regard to the new material planning consideration, for the reason as set out in the Assistant Director of Planning's report.**

The meeting concluded at 4.21 pm.

Signed by the Chair of the meeting
Councillor Hugh Mason