

MINUTES OF THE MEETING of the Planning Committee held on Wednesday, 23 February 2022 at 10.30 am in the Council Chamber - The Guildhall

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

Present

Councillors Lee Hunt (Chair)
Chris Attwell (Vice-Chair)
Matthew Atkins
George Fielding
Robert New
Terry Norton
Darren Sanders
John Smith
Judith Smyth
Gerald Vernon-Jackson

Welcome

The Chair welcomed members of the public and members to the meeting, including Councillor George Madgwick who was attending as an observer.

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.

24. Apologies (AI 1)

Apologies for absence were received from Councillor Lynne Stagg; Councillor Darren Sanders deputised for her. Councillor Matthew Atkins gave apologies for late arrival.

In order that Councillor Atkins could participate in agenda item 5 (Tipner Interchange) members agreed to postpone it but the minutes will be kept in the original order for ease of reference. Councillor Atkins joined the meeting at 1 pm.

25. Declaration of Members' Interests (AI 2)

Councillor Vernon-Jackson declared he had taken advice from the City Solicitor about agenda item 5 (Tipner Interchange) and he would keep an open mind.

26. Minutes of the previous meeting held on 2 February 2022 (AI 3)

RESOLVED that the minutes of the Planning Committee held on 2 February 2022 be agreed as a correct record subject to the amendment that Councillor Vernon-Jackson was present throughout the meeting.

27. Updates on previous planning applications (AI 4)

The Assistant Director of Planning & Economic Growth reported that two new appeals had been made, two had been dismissed and one had been allowed. Three new enforcement notices had been served for the period December 2021 to February 2022. Information relating to the appeals has been circulated to members in writing as requested.

28. 22/00024/OUT - Tipner Interchange, Tipner Lane, Portsmouth, PO2 8AN (AI5)

Outline application, with all matters reserved, for the construction of a multi-storey transport hub (up to 28.5m above existing ground level) incorporating a park and ride facility and ancillary uses (up to 840sqm), with access from Junction 1 on the M275. The proposal constitutes EIA development

There was an adjournment from 1.40 to 1.50 pm while Councillor Atkins sought advice from the Planning Lawyer as his employer, the University of Portsmouth, had written in support of the application. Councillor Atkins confirmed he had a personal, not a prejudicial, interest in the application so could participate in discussion on the item.

There was an adjournment from 1.54 to 1.59 pm while Councillor Vernon-Jackson sought advice from the Planning Lawyer as he is a Director of the Port and it comes under the Leader's portfolio. Councillor Vernon-Jackson confirmed he had a personal, not a prejudicial, interest so could participate in discussion on the item.

Councillor Smyth sought advice from the Planning Lawyer as she was a member of the Port Advisory Board but this does not constitute a prejudicial interest as it does not make decisions.

The Development Management Lead introduced the report and drew members' attention to the Supplementary Matters which reported that:

1. *Consultee comments have been received from:*
 - a. *Coastal Partners - No objection*
 - b. *Natural England - Further information required to determine impacts on protected sites*
 - c. *Landscape Architect - This raises a number of concerns:*
 - i. *This development will have significant landscape and visual impacts.*
 - ii. *The height, scale and massing of the revised outline may still generate negative impacts upon the surrounds.*
 - ii. *Justifications for the need for the target of up to 2650 car parking spaces proposed are still quite vague.*
 - v. *This appears to be an over development of a site very close to new and established communities and will have negative effects of shade and scale upon its surrounds.*
 - v. *Regarding the indicative layouts; keeping the existing circulation hub for buses and the termination building would reduce the overall impact of the new development and keep the higher built form further from the existing 2-3 storey housing.*
 - vi. *Given the prominence of the structure and its gateway location, thought needs to be given to high quality materiality, details and exact proportions of each block to accommodate the development in the existing and proposed contexts.*

vii. Overall, the current mass of the proposal, even when split into blocks still appears unsympathetic to the local environment and vernacular and might also create an unhelpful precedent for future proposals in the adjacent areas.

viii. Concerns about the environmental impacts of such a huge building mass on the adjacent protected areas of the harbour, especially given the accumulative effects of development of the adjacent Tipner East and West proposals should be fully addressed as a whole rather than individually as aggregated impacts can cause much harm if not considered.

ix. Consideration needs to be given to increasing biodiversity has not been proposed around the site or within the building structure. Options might include:

1. retaining the green screening on site, providing green roofs and bird/bat or bee habitation within the envelope of the building itself.
2. a specialist 'green wall' might also be applied to lower levels nearer housing to help mitigate the additional pollutants that will be experienced in the locale.

d. Southern Water - draws the applicant's attention to the need for specific consents under S185 of the Water Industry Act.

e. HCC Ecology - further clarification has been sought in connection with concerns raised by HCC Ecology in respect of the dates the ecological surveys were carried out.

2. No consultation responses have been received from:

- a. Defence Estates (SW Region)
- b. Environment Agency
- c. Queen's Harbour Master
- d. RSPB
- e. Hants & IOW Wildlife Trust
- f. Southern Gas Network
- g. Highways Contractor (Colas):
- h. Environmental Health
- i. Road/Footpath Closure
- j. Planning Policy
- k. Naval Dockyard Society (NDS)
- l. Environment Agency

3. In addition a further 8 public comments have been received, 5 in support (Portsmouth University, Portsmouth Port, Portsmouth FC, Portsmouth Hospitals University NHS Trust and VIVID Homes) (please see Appendix 1) and 3 further objections from local residents.

4. The list of draft conditions has been amended (please see Appendix 2).

5. A letter has been received from the agent responding to the comments made by the Council's Landscape Architect. It concludes that, 'In planning terms, it is considered that the multi-storey element of the proposed Transport Hub would be viewed in the context of the proposed tall buildings consented on the adjacent site at Tipner East, and over time other nearby regeneration aspirations. The application site and nearby land at Tipner West is identified for tall buildings, so there is a long-standing expectation in policy that the site and its surrounds would form a taller urban element within the wider regeneration proposed at Tipner. In this context, and given the scope for further mitigation to supplement the buffers already provided for, the proposals are considered to be acceptable. The high quality indicative options presented aim to achieve an iconic building in a high-profile location that reflects the regeneration ambitions for this area in the Development Plan and emerging planning policy. The development would make a positive contribution to policy aspirations and

the environmental sustainability of the City and complies with the requirements of adopted PCC planning and transport policy.'

22/00024/OUT | Outline application, with all matters reserved, for the construction of a multi-storey Transport Hub (up to 28.5m above existing ground level) incorporating a park and ride facility and ancillary uses (up to 840sqm), with access from Junction 1 on the M275. The proposal constitutes EIA development | Tipner Interchange Tipner Lane, Portsmouth PO2 8AN

Amend recommendation to:

RECOMMENDATION I:

To delegate the decision back to the Head of Development Managements to GRANT PLANNING PERMISSION subject to the following:

1. The receipt of confirmation that Natural England has removed their holding objection in respect of the Habitats Regulations Assessment Appropriate Assessment.

2. Confirmation from HCC's Ecologist regarding the adequacy of the ecological surveys submitted with the application.

3. The inclusion of any additional conditions.

RECOMMENDATION II:

That delegated authority be granted to the Head of Development Management to add/amend conditions where necessary.

Deputations in support of the application were made by Ian Palacio on behalf of Mike Seller (Port Director), Abi Kelly (Senior Project Manager, Regeneration) and Councillor Lynne Stagg.

Deputations are not minuted but can be viewed on the Council's website at:

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Members' Questions

In response to questions, the following points were clarified:

- The reserved matters - impact on heritage matters, access, appearance, landscaping, layout, scale - are not being discussed today.
- The drawings presented at the Planning Committee meeting on 29 June 2021 are not presented today as they refer to the previous proposal which has since been modified.
- The phasing plan will consider how work is done at the construction and operation stages without undue impacts on neighbouring residents and traffic as well as maintaining the Park & Ride during construction. The Interchange will probably be built in phases so as to properly manage it and ensure the facility operates correctly.
- Although reserved matters are not being discussed today the parameter plans can be discussed, for example, the structure's maximum height so there is an idea of its scale. The layout, or "envelope" of the site, shows the maximum boundary. Some parameters can be set but others are fully reserved.
- Officers were not entirely sure what the consolidation centre is but it is probably connected with the other uses planned for the site. The site is not just a Park & Ride but will have facilities like car and bus maintenance. Abi Kelly said facilities could include a pick-up point for deliveries for local residents.

- Members were pleased their comments had been taken on board and to see a reduction in scale and size. However, they were concerned that the design did not seem very palatable, especially as the site is the gateway to Portsmouth. They hoped to have a high quality design that would expand the city's aspirations and help the city be where everyone wants it to be. Abi Kelly said the design of the development may be considered around September and members, businesses and local residents would be consulted.
- Although it is not a requirement to justify the development in planning terms, the applicants have set out clearly the benefits of the proposal, for example, to the economy and transport systems.
- The situation with air quality for local residents is complex. Air pollution is very localised and may not reach as far as Range Green residents. There may be fewer diesel vehicles by the time the Interchange is built and buses may be running on different fuel. The benefits of the Interchange are more "in the round" and in terms of general sustainability. There will be a limited increase locally but the benefit will be to the city as a whole. Officers are unaware of any research on the effect on local residents but air quality is included in the Environmental Impact Assessment.
- External agencies were given the usual 21 days to respond, which most of them did. The application would not be brought to the Committee if an important agency such as the Highways Authority had not responded. Otherwise, the application would not be withheld. Some agencies' areas of interest overlap, for example, the RSPB and Natural England. A response from Natural England has since been received.
- The Head of Development Management is Eze Ekeledo so refers to the Local Planning Authority and not the developers.
- The site is within the location where tall buildings are permitted but other factors like design are reserved matters.
- The principle of approval and design being considered separately applies equally to small buildings. For example, permission may be given to the principle of two dwellings to be built in a gap with the design considered later. With a major scheme like the Interchange there is much work to be done. There could be a smaller building but the Committee dislikes the appearance. It is in the Committee's gift to comment on the design at a later stage.
- The reference to managing noise from plant and equipment is aimed at the operational long-term stage of the development but construction noise is not discounted though.

Members' Comments

- Some members said the Interchange is a real opportunity that will benefit the Port. Turnaround with cruise ship passengers is needed so that people stay in the city, which then benefits the local economy. Cruise ships will be operating at higher capacity this year so the Interchange is hugely important. The Port's changing function is crucial to Portsmouth; it is a customs site for the new Freeport. The original objections to the lack of justification have now been resolved. It will reduce parking on streets, which will be a great advantage on football match days. The development is a decent building block for the future. Members appreciated the two-stage process.
- Other members were not convinced the proposal was any better or entirely different from the previous application. If the application is not satisfactory it

should be returned. In addition, comments from external organisations show some concerns and some agencies have not responded.

- Even though there are now more reasons for justification the development is still an eight-storey car park so not an attractive building in its own right. It is unclear what the arrangements for charging electric vehicles are (they could be in different areas of the city) or if the concept of micro-freight will be successful. The principle of the development is not acceptable in a residential location; a staged development is preferable.
- Officers reiterated appearance is a reserved matter and in the Committee's gift so they can say if they do not like an eight-storey building. Large buildings can be attractive, depending on the resources and imagination used in the scheme. Car parks can be good if skilled architects and engineers are involved. There are many permutations to be considered such as the shape of the building and cladding materials.
- There were fears over the sea defences, another large development, but which so far are looking good.

RESOLVED to grant conditional planning permission as set out in the officer's committee report and the Supplementary Matters.

29. 21/01287/CPE - 83 Margate Road, Southsea PO5 1EY (AI 6)

Application for a certificate of lawful development for use as a seven person/ seven bedroom house in multiple occupation

The Assistant Director of Planning & Economic Growth introduced the report and noted that written deputations had been received from:

- the owner of the property in support of the application
- Henry Thorpe objecting to the application
- Martin Willoughby (on behalf of the East St Thomas Residents' Forum) objecting to the application

Members confirmed they had read the deputations.

Members' Questions

In response to questions, the following points were clarified:

- The application is the same scenario as the Campbell Properties case whereby a change in occupancy of a six-bedroom HMO (House of Multiple Occupation) to a seven-bedroom one would not result in a material change of use. A room is being converted into a seventh bedroom. Many properties change over time but the Committee is not considering the property as it was. The proposal is legally permissible under permitted development rights.
- Fire regulations are dealt with by the Private Sector Housing team as part of the licensing process for HMOs. Regulations for bedrooms are different from those for communal spaces, for example, the number of smoke detectors needed.
- Officers were unaware of council policies on "super HMOs"; the HMO SPD (Supplementary Planning Document) deals more with introducing HMOs into an area rather than changing existing ones. There was no such policy in the HMO SPD nor the 2012 Local Plan when the Assistant Director of Planning &

Economic Growth joined the council three years ago. The property was already a Class C4 HMO before the Article 4 Direction was created in 2011.

- The point made in Mr Thorpe's deputation about the neighbouring properties being used as HMOs leading to three adjacent properties totalling 21 bedrooms is not relevant to a certificate of lawfulness.

Members' Comments

- Members thought the HMO SPD of 2019 aimed to control "super HMOs." Officers said that although the HMO policy in the 2012 Local Plan was well-known to members and officers, the council's policy determination is not relevant to the granting of a certificate of lawfulness.
- In response to comments that the original planning permission was granted for a clear limit of six people (and that some local authorities require planning permission to change it), officers explained the property was a lawful C4 site so can be occupied by up to six people. Applications to change a planning unit have to be judged on their own merits to consider if it is a material change of use under Section 55 of the Town & Country Planning Act; this does not undermine the purpose of planning. Members are being asked to establish the facts and apply judgement. Planning permission says what someone can do. A significant or material change of use needs planning permission. If it is not material or significant then planning permission is not needed, for example, allowing dogs in the property or changing the number of communal spaces. If members feel the proposal is a significant change of use they have to articulate their reasons so they can defend them on appeal.
- Members have to consider the unit as a whole, not how people use the rooms in the dwelling. Whether it meets space standards is a licensing matter for the Private Sector Housing team. Converting a study to a bedroom is not a material change of use.
- Members mentioned the harm caused by unbalanced communities when there are too many HMOs in an area and an over-intensive use of properties. As well as the HMO SPD 2019 (Section 1.8), PCS23 of the Portsmouth Plan stipulates that amenity should be protected and provide a good standard of living for neighbours. "Super HMOs" can have negative effects on neighbourhoods. Complaints about them are higher than for ordinary HMOs. Over-intensive use of properties leads to increased waste and other problems. If occupancy can be increased from six to seven people then it could be increased to seven, eight or more.
- Officers reiterated policy is not relevant to certificates of lawfulness and making judgements about change of use.
- Some members agreed that the material considerations have to be examined but having 21 bedrooms spread over three houses must have implications for traffic and highway issues. It is a difficult situation as there are many HMOs in the area but members need to listen to officers' advice. The living space is more than the required standards. The room may be unsuitable to be used as a study. However, it could be said that converting a non-habitable space into a habitable one is a change of use. If members consider the proposal is a material change of use their decision may be overturned on appeal but they will have stated they do not like it.
- Members noted that the limit of 10% HMOs in a radius of 50 metres was a compromise with the Planning Inspectorate who had not permitted a limit based on the number of HMOs in a street. The system is frustrating and irritating and

creates trust issues with residents. Developers are circumnavigating the council's policies.

- The Committee has considered HMOs for over a decade and the council has done everything in its power to control them but is up against the National Planning Policy Framework and the de-regulation of planning across the country.
- Officers agreed the situation is deeply frustrating but explained cumulative impact (along with parking) is not a question of policy and is not relevant to the legality of the proposal. The law allows incremental growth; there are over 150 actions that can be allowed under permitted development rights. An increase from six to seven occupants in HMOs has been lawful for decades. The Planning Advisory Service says it is lawful and not a material change of use. The property is a planning unit and has to be considered as a whole; it will still be an HMO. It is the Committee's judgement as to whether the proposal changes the planning unit as a whole but they have to say why it is a material change of use. Officers knew of no evidence of a seven-person HMO as opposed to a six-bedroom making a material difference.

The Committee adjourned from 11.55 am to 12.15 pm.

Members decided to overturn the officers' recommendation to approve the application to grant the certificate of lawful development and

RESOLVED to refuse to grant the certificate of lawful development for the change of use as a seven person/ seven bedroom house in multiple occupation for the following reasons:

A certificate of lawful development should be denied as the breach in the planning permission limiting the property to 6 people increases the cumulative impact of HMOs. A certificate granted to increase to 7 people could then be used to increase numbers to 8, 9, 10, 11 or 12 people. The increase in anti-social behaviour, noise, rubbish and parking all will increase therefore creating imbalanced communities when a house with originally 2 bedrooms is changed to one of 7 bedrooms.

30. 21/00883/FUL - 83 Margate Road, Southsea, PO5 1EY (AI 7)

Change of use from dwellinghouse (class C3) to purposes falling within class C3 (dwellinghouse) and class C4 (house in multiple occupation).

The Assistant Director of Planning & Economic Growth introduced the report and noted that written deputations had been received from:

- the owner of the property in support of the application
- Henry Thorpe objecting to the application
- Martin Willoughby (on behalf of the East St Thomas Residents' Forum) objecting to the application

Members confirmed they had read the deputations.

Members' Questions

In response to questions, the following points were clarified:

- There is a small rear yard which contains cycle storage.
- Bins are stored in either the front or back yards.
- With regard to double occupancy of the bedrooms, the lawful use of the property is for seven people. If there were more occupants officers would have to check if it was lawful use under Section 55 of the Town & Country Planning Act. The number of occupants is also a licensing matter and would have to be assessed by the Private Sector Housing team. The Committee could impose a condition limiting occupancy to seven people if it meets the statutory tests of necessity and enforceability.

Members' Comments

- Members felt the principle of development did not comply with the council's policy. The council has worked hard to maintain mixed and balanced communities. If there are more people in the property it would have an adverse effect on the mixed and balanced communities in the area. It is not acceptable to have more and more people living in areas already saturated with HMOs.
- Having smelly rubbish bins outside bedroom windows, meaning the occupants could not open them, is a poor quality standard of living and therefore grounds for refusal.
- Other members noted the living space is more than required. Smells could be prevented by sealing rubbish bags. There was some uncertainty as to whether applications had previously been refused on the grounds of bin location. However, there was strong sympathy for residents as there are many HMOs in the area. They hoped there would be a stricter policy on HMOs in the new Local Plan.
- Officers acknowledged the high number of HMOs in the area but they cannot support the Committee in the re-interpretation of policy on mixed and balanced communities; it is the nature of the community as there were HMOs before stricter controls were introduced. Adding one more person would not have a significant impact on relevant planning considerations. The location of the bins is not optimal but it is a top floor room that is being converted. A refusal could be indefensible on appeal.
- Members mentioned the complaints in the area about rubbish, noise at night and misery for residents. Cumulative impact changes the whole feeling of communities and members felt they should defend communities robustly.

Members decided to overturn officers' recommendation to grant conditional planning permission and

RESOLVED to refuse to grant planning permission for the change of use from dwellinghouse (class C3) to purposes falling within class C3 (dwellinghouse) and class C4 (house in multiple occupation) for the following reasons:

The increased occupancy will have an adverse impact on the area's mixed and balanced community which is contrary to the policy in the Houses of Multiple Occupation Supplementary Planning Document 2019. In addition, locating bin storage outside bedroom windows will have a negative impact on the occupants.

31. 21/01572/PLAREG - 25 Battenburg Avenue, Portsmouth, PO2 0SJ (AI 8)

Retrospective application for the construction of dormer to front roof slope

The Assistant Director of Planning & Economic Growth the report and drew members' attention to the updates presented in the Supplementary Matters as follows:

Deputations in support of the applicant were heard from Robert Tutton and Councillor Scott Payter-Harris. Deputations are not minuted but can be viewed on the council's website at

[Agenda for Planning Committee on Wednesday, 23rd February, 2022, 10.30 am Portsmouth City Council](#)

Members' Questions

In response to questions, the following points were clarified:

- The issue is a long-running matter and the applicant had been let down by their previous planning agent. However, personal circumstances unfortunately are irrelevant.
- The main reason for refusal is because of the visual impact and prominence due to being on the street corner.
- The Planning team have said the structure cannot be softened any further and it is the protrusion that the Planning Inspector objects to. The resultant bedroom is still more than 15 sq m so does not affect the inside space severely.
- The lack of complaints about the dormer is not a material decision and would not be grounds for a robust decision. Officers recommended a decision in line with the Planning Inspector's previous decisions to maintain consistency.

Members' Comments

Members felt the dormer was not incongruous with the street scene and did not adversely affect the surrounding area. They felt uncomfortable with the refusal as other dormers had been allowed in the same street. However, they thanked officers for having a policy to protect the quality of street scenes.

Members decided to overturn officers' recommendation to refuse retrospective and

RESOLVED to grant planning permission for the construction of dormer to front roof slope for the following reasons:

The dormer is not incongruous with the street scene and would not cause unacceptable harm to the surrounding area.

Councillor Vernon-Jackson left the meeting at 2.49 pm.

32. 21/01789/CS3 - King George V Playing Fields, Northern Road, Portsmouth, PO6 3AA (AI 9)

Construction of single storey sports pavilion, to provide changing rooms, cafe, kitchen, offices, reception area and ancillary spaces, with associated landscaping and parking and construction of 2no. Artificial grass pitches

The Assistant Director of Planning & Economic Growth introduced the report and drew attention to the Supplementary Matters which reported that the following informative is recommended:

The applicant is advised to refer to the consultee response from the Hampshire Designing Out Crime Officer for further advice and guidance on increasing the security of the pavilion and reducing the opportunities for crime and disorder.

Members' Questions

- In response to concerns about the loss of free space, officers did not have any information about whether local residents would have to pay to use the facilities. The application is not for change of use and there is still room for firework displays.
- A condition requiring the installation of solar panels could be imposed but is inadvisable as it is too restrictive and an arbitrary decision could fetter good design. Condition 18 covers the level of sustainability required which the developers can meet with other methods.
- Officers are not aware of any concerns that it is less likely there will be fewer large-scale events due to the proposals. Many recreational areas have a mixture of artificial and grass surfaces. There is no planning policy associated with events such as festivals. The fenced areas could be useful as event organisers would not have to erect fencing. In addition, the events held on the site might depend on what Cosham residents want.
- The plans do not specifically show a footpath around the northern boundary but the current footpath around the rest of the pitches is to be maintained. Some of the car parking spaces would be concrete with grass growing through it.

Members' Comments

- Some members thought the development would be good for sports and recreation in the north of the city. People have to pay to use pitches to cover the costs of maintenance.
- Other members said there was considerable concern in Cosham as the interests of professional sport could exclude residents because of cost. The amenity value of the site should not be removed from the community.
- Officers said community use agreements are often sought on private land but are not relevant for public land so are not a planning consideration. The Committee has to judge the application on its own merits. There is no change to the number of pitches.
- Although the land was gifted to the city officers have no information on private covenants or endowments. Local Planning Authorities can improve it as they see fit but private land matters are not a planning matter and out of their control.
- The proposal will provide parking spaces and new jobs.
- Councillor Madgwick, who is Chair of Paulsgrove Football Club, explained there would be fees for using the facilities which could be hired in slots. However, the FA, who are funding much of the project, work with partner clubs and youth clubs so they can use the slots. The pavilion and pitches have gone out to tender and some applications have been received.

RESOLVED to grant conditional planning permission as set out in the officer's committee report and the Supplementary Matters report.

The meeting concluded at 3.16 pm

Signed by the Chair of the meeting
Councillor Lee Hunt