

MINUTES OF THE MEETING of the Planning Committee held on Wednesday, 10 August 2022 at 10.30 am in the Council Chamber, the Guildhall, Portsmouth

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

Present

Councillors Judith Smyth (Chair)
George Fielding
George Madgwick
Hugh Mason
Darren Sanders
John Smith
Gerald Vernon-Jackson

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.

111. Apologies (AI 1)

Apologies were received from Councillors Chris Attwell, Robert New, Russell Simpson and Linda Symes. Councillor Madgwick deputised for Councillor Simpson.

112. Declaration of Members' Interests (AI 2)

In the interests of openness and transparency Councillor Sanders made a voluntary declaration that he lived in a house of multiple occupation (HMO) as four agenda items concern HMOs. Councillor Smith made a voluntary declaration a personal in agenda items 7 and 8 concerning the former Knight & Lee as he used to run John Lewis; however, John Lewis is not connected to the Knight & Lee items. Councillor Vernon-Jackson declared a personal and prejudicial interest in agenda item 13 as he knew several people in Lombard Court so would leave the meeting while it was being discussed and not vote on it.

113. Minutes of previous meeting held on 27 July 2022 (AI 3)

RESOLVED that the minutes of the Planning Committee held on 27 July 2022 be agreed as a correct record.

114. 21/01446/FUL - 78 Oriel Road, Portsmouth, PO2 9EQ (AI 4)

Change of use from house in Class C3 (dwellinghouse) to purposes falling within Class C3 (dwelling house) or Class C4 (house in multiple occupation)

The Interim Head of Development Management presented the report and explained that the application is subject to a valid appeal on the grounds of non-determination so the Committee is not the determining authority today; their role is to make a recommendation to forward to the Secretary of State for their determination. He drew

attention to the Supplementary Matters report which provided the following additional information:

Amendment to report

Page 9, Table 1 - 'HMO SPD (Oct 2019) compliance' - remove reference to '34m²' in the 'Required Standard' column for the 'Communal Kitchen/Dining/Lounge area (ground floor)' and replace 'bathroom 1 to 6' in the 'Room' column with 'shower room 1 to 6'.

1 additional representation (objection) received from a resident in Oriel Road who has previously commented on the application. The representation raises the following matters which have been addressed within the report:

- Increase in noise and disturbance;
- Safety concerns; and
- Increase in on-street parking problems.

Officer Recommendation remains unchanged

Councillors Daniel Wemyss and Russell Simpson made deputations against the application.

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

[Agenda for Planning Committee on Wednesday, 10th August, 2022, 10.30 am Portsmouth City Council](#)

Members' questions

In response to questions, officers clarified that

- Cycles would have to be taken through the whole length of the property to access the cycle storage.
- With regard to powers given by MPs to refuse applications and defend on appeal the local planning authority (LPA) can only refer to statute, for example, the Town & Country Planning Act and Use Classes Order, which defines C3 and C4. as C4 allows occupancy by up to six people. From the perspective of the LPA it is difficult to reject applications. There is no particular legislation governing reasons for refusal. In law the committee is the LPA for the purpose of making decisions as they see fit and having regard to officers' advice. However, in this instance the committee will make a recommendation to the Secretary of State on what it would have decided if it was the determining authority. Most appeals are handled by the Planning Inspectorate who is appointed to make decisions in the name of the Secretary of State.
- As to how flats are counted (individually or just the whole building) when calculating HMOs in the 50m radius, usually flats are considered single C3 dwellinghouses but with the 50m radius the Supplementary Planning Document (SPD) states that officers will endeavour to establish the number of flats; if this is impossible then it will include all the properties in buildings in the count. In this case the data count identified 20 flats in the 50m radius.
- It is difficult to say how many people are occupying the property now. It is a three-bedroom house with a proposal for three extra bedrooms. C3 there is no limit on the number of occupants.
- Under permitted development rights householders can undertake certain extensions and enhancements without planning permission.

- With regard to the study / home office, many more people are working at home and using a room as home office is permissible under C3/C4 use. The property's owner could potentially keep it for their own use but this is not known. At the moment C4 use is sought which would allow occupancy by up to six people. If the study / home office became a further bedroom it could be a change of use beyond C4 and would engender a similar debate as with other HMOs moving from six to seven bedrooms. With six bedrooms it requires a licence. In theory members could consider a condition restricting it to six bedrooms but this is already stipulated by C4 use. The space standards would be the same if it was for seven people.

Members' comments

- Bearing in mind the need for accommodation and the space standards set out in the SPD members felt they had to approve the application, although with a heavy heart.
- There was some scepticism about the study / home office as it could be used as a seventh bedroom.
- Some members had been contacted by landlords saying the Committee is anti-landlord and anti-HMO. Support for proposed additional licensing of HMOs was welcomed. There was frustration expressed about the planning system as the Planning Inspectorate has different views from local people, for example, whether the number of HMOs in a road or a radius should be counted. With the nature of this HMO's construction the Valuation Office will consider it as flats which means occupants will have to pay council tax, an issue of which HMO developers will need to be aware. The Planning Inspectorate will give no alternative proposals.

Resolved to advise the Secretary of State that Portsmouth City Council Planning Committee resolved to grant conditional planning permission as set out in the officer's committee report and the Supplementary Matters report and subject to a further condition restricting occupancy of the application property to no more than 6 persons: "The House in Multiple Occupation as hereby approved shall not at any time be adapted to enable to formation of more than six bedrooms and shall not be occupied by more than 6 persons at any one time."

115. 22/00810/FUL - 10 Rampart Gardens, Portsmouth, PO3 5LR

Change of use from dwelling house (Class C3) to 4-bed house in multiple occupation (Class C4) (resubmission of 22/00105/FUL)

The Interim Head of Development Management presented the report and drew attention to the Supplementary Matters report which provided additional information. Since the SMAT had been compiled two further objections, similar to those in the SMAT, had been received.

A further 4 objection comments have been received with regards to this application. These comments can be summarised as:

- *The Landlord should be punished for operating an unlawful HMO*
- *Parking issues (including that a boat is stored on the driveway)*
- *The behaviour of the tenants*
- *There are too many tenants*

- *Who will ensure that the property is used correctly (and that the storeroom is not occupied)*

These comments are considered to have already been covered in the report, however a further comment can be made in respect of the parked boat. Planning Enforcement are aware and are investigating a possible business use, however, the storing of the boat is understood to be temporary and there is no indication at the current time that this would result in the permanent loss of a parking space. As things stand, the property retains two off-street parking spaces in compliance with SPD Parking Standards. The utility of these spaces would need to be agreed between the property owner and the tenants.

With regard to the identified storeroom, if this were to become occupied, this would take the level of occupancy to 5 and therefore the property would require a HMO License. Therefore, this issue would be dealt with by Licensing/Private Sector Housing who are aware of the issues at the property.

At 4.10 of the report, the standard for Shower Room should be identified as 2.74m² and the standard for communal living area should be amended to 34m².

Paragraph 4.6 incorrectly refers to another HMO at 302 Queens Road. This was pulled into the report in error and should be disregarded. There are no other HMOs within the 50m Radius.

Condition 1 should be removed as the application is retrospective. Remaining conditions should be accordingly re-numbered. The Cycle Storage condition should, for the same reason, be amended to read as follows: "Within 3 months of the date of this planning permission, secure and weatherproof bicycle storage facilities for 4 bicycles shall be provided at the site and shall thereafter be permanently retained for the parking of bicycles at all times."

Recommendation unchanged, subject to removal of condition (1), re-numbering of remaining conditions and amendment to the Cycle Storage condition as stated.

- Megan Zhelyazkova and Alex Haskelov made deputations against the application.
- Jonathan McDermott (agent) made a deputation.
- Councillors Wemyss, Scott Payter-Harris and Simpson made deputations against the application.

Members' questions

In response to questions, officers explained that

- For a property with three to five occupants the minimum combined living area standard is 24m² and for six to ten occupants it is 34m². The determining issue is the number of occupiers, not the number of bedrooms.
- With regard to the length of time between an application and occupation and when an application becomes retrospective, use as a dwellinghouse can be deemed lawful after four years whereas with other changes of use it can be ten years. A property would need 10 years' activity as an HMO to argue that such use is lawful. There is no other timeframe or obligation requiring a retrospective application. In this case the applicant has made a material change of use

requiring planning permission. Action by Planning Enforcement resulted in a retrospective application.

- Planning officers are aware of business use at the property but ultimately members are determining the application before them as a change of use. If enforcement action continues there could be a case to see if there is a change of use from an HMO to a taxi business (sui generis) but this a separate matter from the current application and would need separate action by Planning Enforcement.
- The application is retrospective as the property is in unauthorised use as an HMO which the LPA has to regularise. It is not illegal to make a material change of use without planning permission so it is incumbent upon the LPA to regularise it.
- It may be possible to have a condition stipulating occupancy by no more than four people; the Planning Inspector had accepted a similar condition in Copnor Road. The Legal Advisor pointed out that two of the four bedrooms were doubles so the property could have up to six people.
- Members have to determine the application as it is before them so it is not relevant if the photo of the store room was taken before or after the first planning application. The application is for a four-bedroom HMO of which two are doubles so it is advisable not to limit occupancy to four people; it could be limited to six people but C4 use limits occupancy to six people anyway. If the store room was used as a bedroom it would be a breach of planning permission which would strengthen the LPA's position and provide a basis for continued enforcement investigations. Checking the store room is not being used as a bedroom is for Licensing.
- A condition could reinforce that the store room is not to be used as a bedroom. Planning Enforcement could monitor and investigate on an ongoing basis. Class C4 use does not permit a business to be run from the property, so a condition relating to business use is not necessary, business use would need separate planning permission. An informative could be added stating no business use.
- The relevant factor is the use of the property, not the number of users.
- Unless the boat is a permanent structure it is considered that the property has two off-road parking spaces. It is up to the owner and tenants how they use the parking spaces. The Highways Authority are satisfied with the parking provision.

Members' comments

- Members thanked Planning Enforcement for taking action as otherwise the application would not be before the Committee. They requested their approval to be minuted.
- The photographs show a bed in the store room so it is reasonable to assume it would be used as a bedroom and shows that the previous planning permission has been broken. There is also the impact on amenity for the room's occupant and neighbours.
- Objecting to the application on the grounds that it is contrary to the need for "mixed and balanced communities" as stipulated in PCS20 of the Portsmouth Plan would be difficult to sustain on appeal as only 1.17% of properties in the 50m radius are HMOs.
- Members can consider other policies in the Portsmouth Plan, such as PCS23 which stipulates a good standard of living environment, when making their decision.

- Any residents having problems with anti-social behaviour are advised to phone 111 and the council every single time as that develops a record that can be examined.
- Officers advised the previous application was refused on the sole issue of the poor light in the fifth room. Refusal of the current application on other issues would be very difficult to sustain on appeal and there is a risk of costs.
- Officers advised it is not relevant to refer to the previous refusal; however, there could be a condition limiting use of the fifth room which would overcome the objection. The previous refusal could be mentioned in an advisory note.
- While members acknowledged a condition would strengthen enforcement of the store room not being used as a bedroom, they felt the property has been managed in such an egregious way that it is not operated reasonably.
- The Legal Advisor advised that Members needed to consider the change of use of the building and not the users being the current occupants and the landlady. The application is for a change of use from dwelling house (Class C3) to 4-bed house in multiple occupation (Class C4). The description of the development limits the use as a 4 bed roomed HMO.

Resolved to refuse the application. Reason for refusal: "The proposed change of use would give rise to harm to residential amenity in the vicinity of the property by reason of noise and disturbance contrary to PCS23 of the Portsmouth Plan which requires a good standard of living environment for neighbouring and local occupiers." In addition, an Informative should be added to the Decision Notice stating: The applicants are reminded that the use of the identified store room as a 5th bedroom remains unacceptable having regard to the previous refusal of planning permission referenced 22/00105/FUL and would need meet HMO Licensing Standards.

- After the vote had taken place Members raised the impact on the occupier of the HMO itself.
- The Legal Advisor advised members they cannot add extra reasons for refusal once they have voted.

116. 21/01735/PLAREG - Unit 14 Fitzherbert Spur, Portsmouth, PO6 1TT

Retrospective application for change of use from warehouse (Class B8) to general industrial (Class B2)

The Interim Head of Development Management presented the report and drew attention to the Supplementary Matters report which provided the following additional information:

A further representation has been received from Mr M Giles raising concerns about publicity of the Committee, which have since been addressed. Mr Giles has asked that his deputation is read out at Committee as he won't be able to attend in person. He has been advised that this remains at the discretion of the Chair, although a copy of his deputation is attached.

The applicant's agents have provided further clarification as to the available car parking at the premises. An extract from a Title report has been supplied (attached) which indicates land within the applicant's control. This provides for a total of 8 spaces within the open front courtyard plus approximately 16 parking spaces within a

gated area immediately to the west of the application site. The site employs 11 persons currently.

It's noted that these additional parking spaces relate to land outside the application site and should either have been included within the red line boundary or otherwise identified as 'blue land' within the applicant's control. However, Officers are satisfied that the development as proposed and having regard to this additional evidence, has adequate provision for car parking. It remains appropriate nonetheless to seek a Travel Plan to encourage modal shift as per recommended Condition (2).

As the development has already commenced, condition 2 should be amended to read as follows: 'Within 3 months of the date of this planning permission, a Travel Plan shall be submitted to the Local Planning Authority for approval. Such Travel Plan, as may be approved, shall be implemented in full.'

Recommendation unchanged, subject to amendment to Condition (2) as noted.

- The Interim Head of Development Management read out a deputation from Mick Giles, which was against the application.
- Jonathan McDermott (agent) made a deputation.

In response to Mr McDermott's deputation, the Interim Head of Management Development explained that the Highways Authority recommended refusal as there was no parking demand assessment. Officers therefore proposed a condition requesting a travel plan, which is the most that can be reasonably requested as a planning authority. The Highways Authority's reason for refusal is not sustainable as the property is in an industrial estate with plenty of parking.

Members' questions

In response to questions, officers clarified that

- There are other B2 light industrial uses on the site. There is strong support for B1 and B2 use.
- Mick Giles is not a Portsmouth councillor; officers apologised for the error. Objections from councillors in other areas are not allowed.
- Officers would have to check if Mr Giles had received a consultation letter but as he had made a deputation (which was read out) he was aware of the application so they are satisfied he has had sufficient involvement.
- Officers are not aware of any appeal decisions about noise.
- It is not ideal for the additional parking spaces to be outside the application site but officers are satisfied the applicant has control over the land for the additional parking. If officers had had time they could have made a red line plan showing all the parking within the applicant's control; however, it does not affect determination of change of use.

Members' comments

- The council's neighbourhood notification is over and above what is required.
- The application seems sensible for an industrial estate.
- There needs to be clarification that parking outside the applicant's site and jurisdiction will be used properly. As well as the condition requesting a travel plan officers could include an informative requesting a parking demand assessment to show the council takes transport matters seriously.

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

There was a short break from 12.52 pm to 1.05 pm.

117. 21/01620/FUL - Knight & Lee, 53-57, Palmerston Road, Southsea, PO5 3QE

Mixed use development comprising conversion and change of use of existing building to provide retail, food and drink/bar, office, hotel, cinema and gym uses; external alterations to include partial demolition of rooftop structures, construction of rooftop extension, replacement shopfronts to north and south elevations, installation roof top plant enclosures, vents to façades and works to canopies

The Interim Head of Development Management presented the report and drew attention to the Supplementary Matters report which provided the following additional information:

Amendment to Condition 9 - 2nd line, insert "and cinema uses" after "gym".

Also, the penultimate line, should read "...shall be fully implemented prior to first use and thereafter permanently retained." This is to ensure it is not constrained simply to the matter of roof terrace(s).

Delete condition 22 as, following the previous approval, a cinema is now a sui generis use so any change of use would require planning permission in any event. The condition is not necessary.

The report states, at page 29, that there are 17 hotel rooms on the first floor. There are 19 hotel rooms on the first floor. The second and third floors are correct at 24 on each floor equating to a total of 67 hotel rooms.

Paragraph 6.36 of the Committee report referees to terraces. The scheme proposed a third floor hotel room with an outdoor patio/terrace. The applicant has removed this and there are no outdoor terrace areas proposed.

Recommendation unchanged, subject to the deletion of Condition 22 and the amendment to Condition 9 as set out in the SMAT.

Peter Tisdale (agent) made a deputation.

Members' questions

In response to questions, officers and Mr Tisdale explained that

- The 247m² on the ground floor would be for public use and is a restaurant, food court and bar with the bar more centrally located. The central area would comprise the hotel lobby (24/7 space) with reception, bar and access to the hotel kitchen. The food hall to the northern section is effectively a restaurant. Smaller food hall units will be local traders who will take short-term licences. Customers will have access to multiple choices of food. The food hall will be managed by the building. Other cities have similar initiatives which are in vogue but here to stay. The bar will double up as the hotel's breakfast room and has the advantage of the morning sun. The breakfast room and night-time restaurant will be open to the public and hotel patrons.
- The two cinema screens seat 84 people in total.

- The existing Crittall windows will be renewed and made good then secondary glazed on the inside. This enables a balance between the environment and heritage.
- The basement will only have provision for plant. The reference to excavation is from the previous application which had a larger cinema but this was unviable. Access to the sub main will be maintained so the basement is for electrics only.
- The loading bay will be for servicing only. Drop off and pick up of customers will be in the existing highway network. There is a strong reliance on attending on foot. Waste arrangements have not changed as the former John Lewis loading bay will still be used. Condition 11 covers waste and servicing.
- Overlooking has not been mentioned in the last 12 months. There is not a great deal of concern because of the orientation of the windows.
- The ground plan has evolved considerably, particularly with the gym, which is why there are now two retail units, not four. The retail frontage is not dissimilar in terms of meterage. There are some interested retailers but they have not signed up yet due to uncertainty; however, Mr Tisdale is confident the units can be filled. The footfall generating use in other parts of the development compensates for the lost retail space.

Members' comments

- The closure of Knight & Lee and Debenhams had "knocked out two front teeth" in Palmerston Road so the application is a good post-pandemic response to make Southsea more vibrant and exciting.
- Members recommended that independent and local food providers should be used as much as possible. The applicant should work with local colleges and use local labour to help provide good quality jobs. Officers lauded the intent but said an informative was not strictly necessary as the points have been made in public.

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

118. 21/01621/LBC - Knight & Lee, 53-57 Palmerston Road, Southsea, PO5 3QE

External alterations to include partial demolition of rooftop structures, construction of rooftop extension, replacement shopfronts to north and south elevations, installation roof top plant enclosures, vents to façades and works to canopies; internal alterations, reconfiguration and sub-division to facilitate alternative uses, installation of secondary glazing

The Interim Head of Development Management presented the report and drew attention to the Supplementary Matters report which provided the following additional information:

The following additional text should added to section 3.0 of the report: "Listed building consent is required under section 7 of the Act: '...no person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised.

Under section 8, works for alteration or extension are authorised by written consent granted by the local planning authority or the Secretary of State and executed in accordance with the terms of the consent and of any conditions attached to it. Works

for demolition are authorised if consent has been granted and the works are executed according to the terms of the consent and any conditions. The application is made under s10 Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) and determine the application in accordance with s16 of the same."

At paragraph 6.20 - replace 'planning' on first line with 'Listed Building Consent.'

Recommendation unchanged.

There were no questions or comments from members.

Resolved to grant conditional listed building consent as set out in the officer's committee report and the Supplementary Matters report

The Committee agreed to consider agenda items 10 and 13 next to prevent the deputees waiting any longer. For ease of reference the minutes will be kept in the original order.

119. 21/00730/FUL - Bedsit 1, 15 St Ursula Grove, Southsea, PO5 1LT

Construction of single storey rear extension

The Interim Head of Management Development presented the report and drew attention to the Supplementary Matters report which provided the following additional information:

With reference to 'call-in' by (former) Councillor Rob Wood, as he was a Councillor at the time of the call-in, this request remains valid. Recommendation unchanged

Jonathan McDermott (agent) made a deputation.

Members' questions

In response to questions, officers explained that

- The bedsit is a separate flat and is not part of the eight-bedroom HMO that was granted consent in March 2021.
- No written representations had been received.
- Officers are satisfied the extension would not affect neighbouring properties; being flat-roofed also helps minimise its impact.

Members' comments

As there were no objectors at the meeting members felt they could only assess the application on what was in front of them.

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

120. 22/00164/FUL - 11 Prinsted Crescent, Portsmouth, PO6 1NS (AI 10)

Construction of no.3 bed dwellinghouse (resubmission of 20/01062/FUL)

The Interim Head of Development Management presented the report and drew attention to the Supplementary Matters report which provided the following additional information:

The following additional wording should be added to the Officer report after the first sentence of paragraph 5.7:

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (see footnote 8), granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (see footnote 7); or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Footnote 8: This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

Footnote 7: The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 181) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68); and areas at risk of flooding or coastal change

For members' information, the existing property at No.11 Prinsted is constructing a matching single storey extension (as show on Plans Ref: 6018-22-2 Rev B). This extension complies with Permitted Development, and therefore given the applicant's fallback position is not being considered within this application.

Members are also made aware of an error in the report. Paragraph 5.45 refers to financial mitigation required in respect of Nitrates to be calculated as £275. This is a typo and is calculated at £2175.

*Following this, **condition 1** Time Limit, should read as a 3-year implementation instead of 1 year.*

A further condition is suggested to be imposed, requiring a landscaping plan:

Condition 8: *(a) Prior to first occupation of the dwelling hereby permitted, a detailed hard and soft landscaping scheme for the external areas which shall specify: planter details; species; planting sizes; spacing and density/numbers of trees/shrubs to be planted; the phasing and timing of planting; and provision for future maintenance has been submitted to and approved in writing by the Local Planning Authority; and (b) The approved hard and soft landscaping scheme shall then be carried out within the first planting and seeding seasons following the first occupation of any of the dwellings hereby permitted; and Any trees or plants which, within a period of 5 years from the date of planting die, are removed or become damaged or diseased shall be*

replaced in the next planting season with others of the same species, size and number as originally approved.

The following additional information should also be noted:

Community Infrastructure Levy (CIL)

'Portsmouth City Council introduced its Community Infrastructure Levy (CIL) charging schedule in April 2012 with a basic CIL rate of £105/sqm. The CIL regulations require indexation to be applied to this rate annually using the RICS CIL Index and the 2022 basic rate is £156.32/sqm. Most new development which creates over 99sqm of gross internal area or creates a new dwelling is potentially liable for the levy. However, exclusions, exemptions and reliefs from the levy may be available.'

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

The Council is required by the Human Rights Act 1998 to act in a way that is compatible with the European Convention on Human Rights. Virtually all planning applications engage the right to the enjoyment of property and the right to a fair hearing. Indeed, many applications engage the right to respect for private and family life where residential property is affected. Other convention rights may also be engaged. It is important to note that many convention rights are qualified rights, meaning that they are not absolute rights and must be balanced against competing interests as permitted by law. This report seeks such a balance.

Under section 149 of the Equality Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Further the Council must advance equality of opportunity and foster good relation between those who share a relevant protected characteristic and those who don't. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Having had due regard to the public sector equality duty as it applies to those with protected characteristics in the context of this application, it is not considered that the officer's recommendation would breach the Council's obligations under the Equality Act 2010.

At the Conclusion the following sentence is to be added: "Having regard to paragraph 11 (d) of the NPPF and the absence of a 5-year land supply, Officers conclude that there would not be such adverse impacts in granting permission that would outweigh the benefits of securing new housing in this instance."

Recommendation unchanged, subject to amendment to condition (1) and additional landscaping condition (8).

There were no questions from members.

Members' comments

The site is an obvious one for a building and it is surprising there has not been one before.

Resolved to grant delegated authority to the Assistant Director of Planning & Economic Growth to grant conditional permission as set out in the officer's committee report and the Supplementary Matters report.

121. 21/01732/FUL - 26 Norman Road, Southsea, PO4 0LP (AI 11)

Change of use from house of multiple occupation (Class C4) to sui generis 7 bedroom HMO

The Interim Head of Development Management presented the report and explained that the application was subject to appeal for non-determination. The Committee had to decide if the application constitutes development because of the extra bedroom and then to determine what it would have resolved; the Committee is not the determining authority in this case. According to the data search it is an unknown HMO. He drew attention to the Supplementary Matters report which provided the following additional information:

Note that the existing floorplans appear to show the ground floor lounge and bedroom in the wrong locations - these should be swapped over. The lounge is currently at the front of the property and hence the new bedroom would be at the front. Recommendation unchanged

Members' questions

In response to questions, officers explained that

- With regard to whether the property was used as an HMO or not the key point is that planning permission was granted for use as an HMO. It is not known why the certificate of lawful development was withdrawn. According to officers it has lawful C4 use and was C4 use in 2011. It may have been rented out before then but the main issue is the use of the seventh bedroom.
- Planning permission is required if it is a material change of use which is what members need to consider.

RESOLVED to advise the Secretary of State that the LPA would have concluded that the proposal change of use through the formation of a 7th bedroom is considered to be development requiring planning permission under s.55 of the TCPA Act 1990 due to the intensity of the use of the accommodation, the impact on parking, waste, amenity impact upon neighbouring residents and the impact on the Solent special protection area.

Members then went on to consider whether to grant or refuse planning permission.

Members' questions

- With regard to concurrent applications, applicants sometimes submit two applications so one can be appealed. The applications appear to have the same description so appear to be duplicate.
- Officers have verified the room measurements.
- For a property with six to ten occupants there have to be two bath or shower rooms and two WCs; one of the WCs can be in one of the bath or shower rooms. The first floor shower falls short of the minimum space standards but officers are satisfied it is usable.

Members' comments

- It is not good for occupants to have to go up and down stairs to access a WC even though the property has three WCs rather than the required minimum of two.

- The shower room could be enlarged if fitted wardrobes were removed from the adjoining room.
- If the application had complied with space standards then the Committee might have approved it.

The Interim Head of read out points from a written deputation by Carianne Wells (agent). The Legal Advisor said the points had been taken into account during the debate.

The Legal Advisor advised Members that they should include the following reason for refusal if they wish to overturn the officer's recommendation for approval:

In the absence of a suitable agreement to secure appropriate mitigation measures for the increased discharge of nitrogen and phosphorous into the Solent water environment, the development would be likely to have a significant effect on the Solent Special Protection Areas and is therefore contrary to the National Planning Policy Framework, policy PCS13 of the Portsmouth Plan and the Conservation of Habitats and Special Regulations (as amended) the lack of legal agreement for the Birdaware and Nitrates.

Resolved to advise the Secretary of State that the LPA would have REFUSED to grant planning permission on grounds that the development would result in poor quality of living accommodation by reason of inadequate room size contrary to policies PCS20 and PCS23 of the Local Plan and guidance within the Council's adopted Houses in Multiple Occupation SPD (2019).

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

122. 20/01270/HOU - 24 Havelock Road, Southsea, PO5 1RU (AI 12)

Construction of single storey rear extension, single storey side extension, a roof terrace to rear roof slope, alterations to existing front dormer window and extension to existing porch

The Interim Head of Development Management presented the report and drew attention to the Supplementary Matters report which provided the following additional information:

Reference is made at paragraph 1.5 to an Article 4 Direction relevant to this site. The Direction requires as follows:

A planning application is required for the following

- 1. The replacement of windows and doors on front elevations (Class A of Part 1 of Schedule 2 of the Order).*
- 2. The removal / alteration of chimney stacks (Class A of Part 1 of Schedule 2 of the Order and Class A of Part 31 of Schedule 2 of the Order).*
- 3. Alterations to canopies and other architectural details on front elevations (Class A of Part 1 of Schedule 2 of the Order).*

4. *The replacement of the roof cladding on the main elevation fronting a highway (Class C of Part 1 of Schedule 2 of the Order).*
5. *The alteration or demolition of front boundary walls / gates / railings (Class A of Part 2 of Schedule 2 of the Order and Class B of Part 31 of Schedule 2 of the Order).*
6. *The painting of any previously unpainted external brickwork or other external wall surfaces of any building (Class C of Part 2 of Schedule 2 of the Order).*

Recommendation unchanged

Members' questions

In response to questions, officers explained that bringing the front door flush with the house is a material change as it is operational development. The conservation area is not harmed as the porch extension is only 1.5m and is in matching materials.

Members' comments

- A dormer letting in light to the loft would be acceptable but a terrace could be used 24/7 leading to noise and overlooking neighbouring residents.
- A Velux window would be a different matter but members were aware they could only consider the application as it was in front of them.
- Environmental Health could deal with noise concerns.
- Officers advised if a refusal was because of the terrace the applicant would assume the rest of the application was acceptable. The terrace is modest in size and recessed. A condition such as locking it after 9 pm would be difficult to enforce and unreasonable.

Resolved to refuse permission:

- 1. The proposed development by reason of the rear roof level terrace result in unacceptable loss of privacy to neighbouring properties resulting in a harm to existing levels of amenity contrary to policy PCS23 of the Portsmouth Local Plan.**
- 2. The proposed rear roof terrace would represent an incongruous feature within the rear roofscape detrimental to the established character of the Conservation Area and contrary to policy PCS23 of the Portsmouth Local Plan.**

Councillor Vernon-Jackson left the room at 1.56 pm and returned at 2.10 pm.
Councillor Fielding left the meeting at 2.10 pm due to other commitments.

123. 22/00502/FUL - 1-40 Lombard Court, Lombard Street, Portsmouth, PO1 2HU (AI 13)

Councillor Gerald Vernon-Jackson left the Chamber before the debate commenced.

Formation of roof terraces on main roof, to include steel balustrades

The Interim Head of Development Management presented the report.

Vivienne Cherrett (applicant) made a deputation.

Members' questions

In response to questions, officers and Ms Cherrett explained that

- Officers are satisfied that the proposed roof terrace would not give rise to a direct intrusive sense of overlooking.
- The roof is intended as a viewing platform which all Lombard Court residents could use but with conditions. Ms Cherrett said Lombard Court has a large proportion of transient tenants and it would only be a problem if keys to the terrace are passed on but she is working with the managing agent so each new tenant is aware of conditions of use. Anyone can use it but there is awareness of permanent residents' right to live in quiet enjoyment.
- The surrounding houses are much lower and occupants would have to look up very high to see the terrace. Blocks 1 and 3 of Lombard Court have direct access to the roof but blocks 2 and 4 can access it through blocks 1 and 3.
- In response to concerns that the railings are not too highly visible or shiny, Ms Cherrett's fellow director said the original railing was BZP (bright zinc plated) in a key clamp style which dulls to a grey matte colour. The BZP railing around Quebec House in Old Portsmouth has dulled. However, the railing could be painted black if members request it. Members agreed that ensuring a suitable finish for the railings could be delegated to officers.

There were no comments from members.

Resolved to grant conditional planning permission as set out in the officer's committee report plus a further condition:

The proposed roof level terrace balustrading shall be painted black prior to first use of the terrace hereby approved and shall be retained and maintained as such thereafter. Reason: In the interest of visual amenity.

The meeting concluded at 3.08 pm.

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Signed by the Chair of the meeting
Councillor Judith Smyth