

MINUTES OF THE MEETING of the Planning Committee held on Wednesday, 28 September 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) Chris Attwell George Fielding Hugh Mason Robert New Darren Sanders Russell Simpson John Smith Linda Symes
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### **Welcome**

The Chair welcomed members of the public and members to the meeting. The Committee agreed with the Chair's suggestion of considering agenda item 11 (18 Pains Road, Southsea, PO5 1HE) first as Councillor Ian Holder was making a deputation. For ease of reference the minutes will be kept in the original order.

The Chair proposed that each application should be considered in two stages: firstly, if the application is considered to be development under the Town and Country Planning Act 1990 and therefore requires planning permission and secondly, if this is the case, then whether planning permission should be granted.

### **Guildhall, Fire Procedure**

The Chair explained to all present the procedures for the meeting and the fire evacuation procedures including where to assemble and how to evacuate the building.

### **136. Apologies (AI 1)**

Apologies for absence were received from Councillor Gerald Vernon-Jackson. Councillors Hugh Mason and Robert New gave apologies as they had to leave early for prior commitments.

### **137. Declaration of Members' Interests (AI 2)**

Councillor Sanders said that he had had email correspondence about building control as a Ward Councillor in relation to properties in Queens Road and agenda item 12 concerned 327 Queens Road. The Legal Advisor advised that Councillor Sanders did not have an interest as it related to a different function of the local authority and he would not have to leave the meeting while the item was considered.

**138. Minutes of previous meeting held on 31 August 2022 (AI 3)**

**RESOLVED that the minutes of the Planning Committee held on 31 August 2022 be agreed as a correct record.**

The Supplementary Matters report and the deputations (which are not minuted) can be viewed on the Council's website at:

[Agenda for Planning Committee on Wednesday, 28th September, 2022, 10.30 am Portsmouth City Council](#)

**139. 19/01849/FUL - 32 Norman Road, Southsea, PO4 0LP**

Change of use from house in multiple occupation (Class C4) to 7 person, seven bedroom, house in multiple occupation (sui generis) (resubmission of 18/01429/FUL)

The Assistant Director of Planning & Economic Growth presented the report and drew attention to the additional information in the Supplementary Matters report.

Carianne Wells (agent) gave a deputation.

Members' questions

In response to concerns that the combined living space is under the required standard, officers explained the committee should not judge on percentages but on the merits of each individual application to see if it creates a reasonable living environment, and this was a matter previously reviewed by an Inspector on this site which is a material consideration and to which members are obliged to give weight when they make decisions. The committee needs to give reasons for their decisions or there is a risk of costs if a decision is considered unreasonable. Planning is not a precedent based system; it requires informed judgement. Members reach their own individual judgement while applying policy. There are similar homes nearby but they are not identical. Numbers are used to show why one scheme is acceptable and one is not but they are not the be-all-and-end-all. Members need to distinguish why one application is acceptable and one is not. Other applications in today's agenda have rooms that are under the space standards and the committee will have to apply their judgement. Residents are entitled to have decisions made consistently, which is not the same as precedent.

Members considered in this case and on its own merits the proposal to be development requiring planning permission as the proposed increase in occupancy would result in a significant difference in the character of activities compared to the existing lawful use as an HMO due to the intensity of the use of the accommodation, the impact on parking, waste, amenity impact upon existing and neighbouring residents and the impact on the Solent Special Protection Area. As such the change of use is material and planning permission is required for the increase in occupancy described in the application.

### Members' comments

The under-sized communal living space fails to provide an adequate standard of living accommodation. The grounds for refusal in 2018 still apply. If the rules concerning space standards had not changed the application would now be acceptable. However, it is not a question of numbers but the space people live in.

**RESOLVED that the works would be considered development requiring planning permission and RESOLVED to refuse the application on the grounds that the proposed use of the building as a seven person, seven bedroom sui generis House in Multiple Occupation would, as a result of its undersized communal living space fails to provide the necessary space for an adequate standard of living accommodation for future occupiers and would represent an over-intensive use of the site. The proposal is therefore contrary to Core Planning Principles of the National Planning Policy Framework and Policy PCS23 of the Portsmouth Plan, including the supporting Houses in Multiple Occupation Supplementary Planning Document, noting the change in guidance within the most recent SPD.**

#### **140. 20/00921/FUL - 237 Fawcett Road, Southsea, PO4 0DJ**

Change of use from house in multiple occupation (Class C4) to house in multiple occupation (sui generis)

The Assistant Director of Planning & Economic Growth presented the report and drew attention to the additional information in the Supplementary Matters report, particularly that all rooms meet the space standards.

Carianne Wells (agent) made a deputation.

Members considered in this case and on its own merits the proposal to be development requiring planning permission as the proposed increase in occupancy would result in a significant difference in the character of activities compared to the existing lawful use as an HMO due to the intensity of the use of the accommodation, the impact on parking, waste, amenity impact upon existing and neighbouring residents and the impact on the Solent Special Protection Area. As such the change of use is material and planning permission is required for the increase in occupancy described in the application.

### Members' questions

In response to questions, officers clarified that:

- Although the property is licensed for five persons and the application requests occupancy for up to seven, the application cannot be amended by condition to limit occupancy to five as that would be unlawful and nullify the development applied for and what the committee have said requires planning permission.
- The wording of the 'Impact on Special Protection Areas' paragraph in the officer report can be changed so that "likely significant effect" is in capitals, but if an application is not a plan or proposal for the purposes of the

regulations then it does not have a Likely Significant Effect under the same regulations.

#### Members' comments

- If members were minded to approve the application, a condition could be imposed on the Special Protection Area as well as on cycle storage in addition to standard conditions. Officers apologised that reports on some applications did not contain the standard conditions.
- A condition on occupancy needs planning justification so officers drew attention to room sizes as two of the bedrooms could have double occupancy. It is totally contrary to officer advice and there is a risk of costs being imposed.
- Members would be happy with seven occupants. However, it is highly likely the rooms may be disaggregated so the occupants will pay council tax and qualify for one car parking space per room. Officers advised that issuing an informative to the council's parking department stipulating two car parking spaces for the property rather than one per room is not permissible. Informatives are for the applicant. However, members can contact the parking department to raise any concerns.

**RESOLVED that the works would be considered development requiring planning permission and RESOLVED to grant conditional permission as set out in the officer's committee report with additional conditions for time limit, approved plans, cycle storage, mitigation on the SPA and limit on occupancy to seven persons, and the Supplementary Matters report.**

Councillor Mason left the meeting at 11.30 am.

#### **141. 20/01118/FUL - 44 Hudson Road, Southsea, PO5 1HD**

Change of use from purposes falling within a Class C4 (house in multiple occupancy) to house in multiple occupancy for more than 6 persons (sui generis)

The Assistant Director of Planning & Economic Growth presented the report.

Carianne Wells (agent) made a deputation.

Members considered in this case and on its own merits the proposal to be development requiring planning permission as the proposed increase in occupancy would result in a significant difference in the character of activities compared to the existing lawful use as an HMO due to the intensity of the use of the accommodation, the impact on parking, waste, amenity impact upon existing and neighbouring residents and the impact on the Solent Special Protection Area. As such change of use is material and planning permission is required for the increase in occupancy described in the application.

#### Members' questions

In response to questions, officers clarified that the application is the same as the one received in October 2020 and validated in January 2021. The applicant has said informally that the bedrooms are all for one person but it is up to the

committee to consider room sizes and see if bigger rooms could have double occupancy and be capable of future re-licensing.

#### Members' comments

As the application met the space standards members felt they had to grant permission but with a heavy heart. They requested conditions in respect of Time Limit, Approved Plans, the Solent Special Protection Area, cycle storage and limiting occupancy to seven persons.

**RESOLVED that the works would be considered development requiring planning permission and RESOLVED to grant conditional permission with conditions for time limit, approved plans, cycle storage, mitigation on the SPA and limit on occupancy to seven persons.**

#### **142. 20/00997/FUL - 57 Orchard Road, Southsea, PO4 0AA**

Change of use from purposes falling within a class c4 (house in multiple occupancy) to house in multiple occupancy for more than 6 persons (sui generis)

The Assistant Director of Planning & Economic Growth presented the report.

Carianne Wells (agent) made a deputation.

Members considered in this case and on its own merits the proposal to be development requiring planning permission as the proposed increase in occupancy would result in a significant difference in the character of activities compared to the existing lawful use as an HMO due to the intensity of the use of the accommodation, the impact on parking, waste, amenity impact upon existing and neighbouring residents and the impact on the Solent Special Protection Area. As such change of use is material and planning permission is required for the increase in occupancy described in the application.

#### Members' questions

In response to questions, officers clarified that the property was licensed for eight persons on 7 October 2020.

#### Members' comments

- In response to the deputation, the Chair said that even if all room drawings are marked "single use" the Committee could still impose a condition on occupancy.
- In response to concerns that having three of the bedrooms next to the kitchen / diner would not make a good living environment, officers advised there is no specific policy on bedrooms being next to communal space and they did not see it as a concern. Whether an appeal could be defended depends on the committee's reasoning. If the objection is just because a bedroom is next to the kitchen then it could be declined as unreasonable. A previous refusal on the grounds of a washing machine being next to a bedroom was dismissed on appeal.

**RESOLVED that the works would be considered development requiring planning permission and RESOLVED to grant conditional permission with conditions for time limit, approved plans cycle storage, mitigation on the SPA and limit on occupancy to eight persons.**

**143. 20/01199/FUL - 41 Margate Road, Southsea, PO5 1EY**

Change of use from purposes falling within Class C4 (HMO) use to (HMO) use for more than six persons (sui generis)

The Assistant Director of Planning & Economic Growth presented the report and drew attention to the additional information in the Supplementary Matters report.

Carianne Wells (agent) made a deputation.

Members considered in this case and on its own merits the proposal to be development requiring planning permission as the proposed increase in occupancy would result in a significant difference in the character of activities compared to the existing lawful use as an HMO due to the intensity of the use of the accommodation, the impact on parking, waste, amenity impact upon existing and neighbouring residents (noting the Planning Inspectorate's previous refusal on that particular basis) and the impact on the Solent Special Protection Area. As such change of use is material and planning permission is required for the increase in occupancy described in the application.

Members' questions

In response to concerns that there was very little outside space, officers said they would have to confirm the exact measurements. However, there are no garden standards in Portsmouth and none specifically for HMOs. The current space is lawful. It would be difficult to sustain a standalone refusal with no justification on policy grounds.

Members' comments

The previous reasons for dismissal of an appeal against refusal still stand. The grounds for dismissal of the previous appeal have not been satisfied. Officers advised they would slightly amend the wording for refusal so that there is a narrative for the Planning Inspector. It will include the resolution that planning permission is required, then the reasons for refusal and that there is no SPA mitigation, though the latter could be resolved on appeal.

**RESOLVED that the works would be considered development requiring planning permission and RESOLVED to refuse the application on the grounds that the proposal would be harmful to the living conditions of future occupiers having particular regard to the internal space provision. As such, the proposal would be contrary to Policy PCS23 of the CS, Section 12 of the Framework and guidance in the SPD and that the proposal would have unmitigated adverse effect to the Special Protection Area.**

**144. 21/00071/FUL - 305 Fawcett Road, Southsea, PO4 0LE**

Change of use from house of multiple occupation (Class C4) to seven bedroom/seven person house of multiple occupation (sui generis) (resubmission of 19/01815/FUL)

The Assistant Director of Planning & Economic Growth presented the report and drew attention to the additional information in the Supplementary Matters report.

Carianne Wells (agent) made a deputation.

Members considered in this case and on its own merits the proposal to be development requiring planning permission as the proposed increase in occupancy would result in a significant difference in the character of activities compared to the existing lawful use as an HMO due to the intensity of the use of the accommodation, the impact on parking, waste, amenity impact upon existing and neighbouring residents and the impact on the Solent Special Protection Area. As such change of use is material and planning permission is required for the increase in occupancy described in the application.

Members' questions

- In response to the deputation, the Chair said the phrase "approved with a heavy heart" was sometimes used when granting planning permission because there were often representations against HMOs, especially in areas with a large number of them.
- Officers showed in the presentation which room has changed from a lounge to a bedroom.
- The applicant has confirmed their willingness to adopt the council's Nitrate Mitigation Strategy so this issue can be resolved by condition and planning obligations. Members suggested adding this information to the committee report as it might expedite proceedings.

Members' comments

As space standards have been met there was a proposal to grant planning permission, provided that there are conditions on time limit, approved plans limiting occupancy to seven persons, on cycle storage and the Solent Special Protection Area..

**RESOLVED that the works would be considered development requiring planning permission and RESOLVED to grant conditional permission with conditions for time limit, approved plans cycle storage, mitigation on the SPA and limit on occupancy to seven persons, and the Supplementary Matters report.**

Councillor New left the meeting at 12.07 pm.

**145. 21/00490/FUL - 33 Hudson Road, Southsea, PO5 1HB**

Change of use from dwelling house (Class C3) or house in multiple occupation (Class C4) to house in multiple occupation for seven occupants over seven bedrooms (sui generis)

The Assistant Director of Planning & Economic Growth presented the report.

Mr Chris Boyd (applicant) made a deputation.

Members considered in this case and on its own merits the proposal to be development requiring planning permission as the proposed increase in occupancy would result in a significant difference in the character of activities compared to the existing lawful use as an HMO due to the intensity of the use of the accommodation, the impact on parking, waste, amenity impact upon existing and neighbouring residents and the impact on the Solent Special Protection Area. As such change of use is material and planning permission is required for the increase in occupancy described in the application.

#### Members' questions

In response to questions, officers clarified that the HMO SPD refers to the Private Sector Housing policy for more nuanced guidance, for example, the recommended number of washbasins. The proposal is compliant with adopted policy. Officers pointed out that paragraph 5.7 in the committee report should refer to PCS23, not PCS20.

#### Members' comments

The communal living space is significantly below the required standard. If the space was for five persons (for which the property is currently licensed) it would be acceptable. Instead of making some of the bedrooms smaller or extending into the garden, there could be fewer bedrooms. Officers advised occupancy by six persons is lawful in planning terms and use as an HMO per se is not a breach of the licence. The grant of planning permission allowing higher occupancy followed by a commensurate licence would be a legitimate evolution of the building.

**RESOLVED that the works would be considered development requiring planning permission and RESOLVED to refuse the application on the grounds that the proposal would be harmful to the living conditions of future occupiers as the communal living kitchen area falls significantly below the required standard of 34m<sup>2</sup> and is therefore contrary to PCS23 and that the proposal would have unmitigated adverse effect to the Special Protection Area.**

#### **146. 21/01803/FUL - 18 Pains Road, Southsea, PO5 1HE**

Change of use from purposes falling within Class C4 (house in multiple occupation) to an 8 bedroom house in multiple occupation (sui generis) (resubmission of 20/00996/FUL)

Note that this item was taken out of sequence and heard first at the meeting, meaning that Councillor Mason was present for this item prior to leaving at 11.30 am.

The Assistant Director of Planning & Economic Growth presented the report and drew attention to the additional information in the Supplementary Matters report.



- Councillor Ian Holder made a deputation objecting to the application on behalf of Mr Alastair Jones of 20 Pains Road.
- Carianne Wells (agent) made a deputation.

Members considered in this case and on its own merits the proposal to be development requiring planning permission as the proposed increase in occupancy would result in a significant difference in the character of activities compared to the existing lawful use as an HMO due to the intensity of the use of the accommodation, the impact on parking, waste, amenity impact upon existing and neighbouring residents and the impact on the Solent Special Protection Area. As such change of use is material and planning permission is required for the increase in occupancy described in the application.

The Assistant Director of Planning & Economic Growth explained that the application is subject to a valid appeal on the grounds of non-determination but the start date is not known yet. Depending on the start date, the Committee would either be determining the matter or making a recommendation to forward to the Secretary of State for their determination.

#### Members' questions

In response to questions, officers clarified that:

- HMO applications for more than six persons (sui generis) can vary in the number of proposed occupants depending on what the applicant says. Although this application has eight bedrooms some could house more than one occupant, for example, bedroom no.7. Officer advice is not to impose conditions on numbers of occupants as licensing can do this more effectively but it is the committee's decision.
- With regard to the previous appeal being dismissed because SPA nitrate water integrity issues had not been addressed, conditions cannot be imposed where planning permission is not considered necessary but the committee has now considered it necessary so, if they are minded to grant it, they can impose conditions. The applicant has confirmed they are happy to meet requirements of the mitigation scheme and has provided the necessary assurance. The necessary paperwork can be arranged in a couple of hours. Refusal on these grounds would be unreasonable and lead to costs on appeal which are ultimately costs for council tax payers.
- Likewise, if the committee is minded to grant permission they can impose standard conditions such as on cycle storage and the Solent Special Protection Area.
- Although two extra people in the property will lead to extra nitrate discharge it would be covered by the planning obligation and the payment of a fee for nitrate credits in accordance with the Nitrate Mitigation Strategy.

#### Members' comments

- The application meets the council's space standards.
- As well as agreeing with the conditions set out in the officer's report, members requested conditions on cycle storage and limiting occupancy to eight persons, as well as the three in paragraph 6.2 of the officer's report, making a total of five conditions. There have been huge strides in integrating licensing and planning over the last three years so eight

bedrooms should mean eight persons because of the impact on neighbouring residents.

- In view of compliance with space standards and the proposed conditions members granted planning permission but with a heavy heart as they are aware of problems in areas where there are many HMOs.

**RESOLVED that the works would be considered development requiring planning permission and RESOLVED to grant conditional permission with conditions for time limit, approved plans, cycle storage, mitigation on the SPA and limiting occupancy to eight persons, and the Supplementary Matters report.**

*OR (depending on start date of appeal)*

**RESOLVED that the position of the Local Planning Authority is that if the appeal for non-determination had not been submitted, it would have granted planning permission, with the Conditions for time limit, approved plans, cycle storage, mitigation on the SPA and limiting occupancy to eight persons, and the Supplementary Matters report.**

**147. 22/00510/FUL - 327 Queens Road, Portsmouth, PO2 7LY**

Change of use from Class C3 (dwelling house)/Class C4 (house in multiple occupation) to 7 person house in multiple occupation (sui generis)

The Assistant Director of Planning & Economic Growth presented the report.

Mr Simon Hill made a deputation on behalf of the applicant.

The Assistant Director of Planning & Economic Growth noted that an application for a licence for seven persons was currently under consideration. He advised members to consider carefully an objection on the grounds of impact on waste as the deputation explained the applicant has a licensed waste carrier and applications need to be assessed individually. He acknowledged the waste licence could be transferred to someone else and that the planning permission runs with the land. Waste impact is influenced by management as well as the scale of waste produced. Members noted waste needs could vary, for example, if occupants had a medical condition.

Members considered in this case and on its own merits the proposal to be development requiring planning permission as the proposed increase in occupancy would result in a significant difference in the character of activities compared to the existing lawful use as an HMO due to the intensity of the use of the accommodation, the impact on parking, amenity impact upon existing and neighbouring residents and the impact on the Solent Special Protection Area. As such change of use is material and planning permission is required for the increase in occupancy described in the application.

There were no questions from members.

Members' comments

As space standards have been met there was a proposal to grant planning permission, provided there are conditions limiting occupancy to seven persons, on cycle storage and the Solent Special Protection Area in addition to the standard conditions.

**RESOLVED that the works would be considered development requiring planning permission and RESOLVED to grant conditional permission with conditions for time limit, approved plans, cycle storage, mitigation on the SPA and limit on occupancy to seven persons.**

The meeting concluded at 12.35 pm.

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Signed by the Chair of the meeting  
Councillor Judith Smyth