

MINUTES OF THE MEETING of the Planning Committee held on Wednesday, 21 December 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	Chris Attwell (Chair) Judith Smyth (Vice Chair) Hugh Mason Robert New Russell Simpson George Fielding John Smith Linda Symes Dave Ashmore (standing deputy) Ian Holder (standing deputy)
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Welcome

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

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.

182. Apologies (AI 1)

Apologies were received from Councillors Darren Sanders and Gerald Vernon-Jackson. Councillors Dave Ashmore and Ian Holder were present as Standing Deputies.

Councillors Dave Ashmore, Ian Holder and Linda Symes apologised that they would need to leave the meeting by 1.00pm.

183. Declaration of Members' Interests (AI 2)

There were no declarations of interest.

184. Minutes of previous meeting held on 30 November 2022 (AI 3)

RESOLVED: That the minutes of the Planning Committee held on 30-November 2022 be agreed as a correct record.

PLANNING APPLICATIONS

The Supplementary Matters report and deputations can be viewed on the Council's website at: [Agenda for Planning Committee on Wednesday, 21st December, 2022, 10.30 am Portsmouth City Council](#)

185. 20/00204/FUL - St James Hospital, Locksway Road, Southsea PO4 8LD (AI 4)

Redevelopment of former St James' Hospital comprising the conversion of listed buildings and listed Chapel to provide 151 dwellings and associated works including demolition of extensions and ancillary buildings, construction of new 2 and 3 storey housing to provide 58 dwellings, retention of cricket pitch, club house and changing rooms, provision of car parking, associated landscaping and other works (phased development).

The Assistant Director for Planning and Economic Growth, Ian Maguire, presented the report, informing members that this application was previously reported to the Planning Committee in January 2022 with a recommendation for approval subject to conditions and the completion of a Section 106 legal agreement. The Committee resolved to defer the application for four reasons - affordable housing provision, new build housing elements, retention of mature trees and highways implications. Two appeals for non-determination were subsequently submitted and the Planning Inspectorate is now the determining authority in this case.

The Assistant Director explained that as the appeal progressed to a Public Inquiry earlier this year, discussions with ward councillors about whether any reasons for refusal should be defended had settled on two linked reasons. Those being the unsettled mitigation of potential harm to Milton Common and Brent Geese sites which was a concern raised by Natural England on the day of the Committee meeting in January 2022. Work is ongoing with the Parks Department and the Applicant to update the mitigation strategy to resolve the matter but currently it remains an unresolved harm associated with the development, justifying refusal in the opinion of officers and Portsmouth City Council. As there is a substantive cost associated with the mitigation strategy, officers felt there was insufficient evidence at the time to confirm that the zero provision of affordable housing on a viability basis was proven as the cost of mitigation was not known. The linked reasons for refusal currently being defended to the upcoming Inquiry are therefore, the unmitigated impact on Brent Geese and unproven reduction in affordable housing contrary to policy due to the inadequate viability appraisal. Ward councillors and representatives of the Milton Neighbourhood Forum attended the Planning Inspectorate case management conference as interested parties. In addition to these outstanding issues, the Milton Neighbourhood Forum and ward members have other concerns, and these are set out in the officer's report.

The Assistant Director informed the Committee that the Applicant had asked the Planning Inspectorate to request that the Council undertake a further public consultation in the light of the number of amended plans submitted with the appeal. Consultation on some aspects post-referral took place in February, but the application had been updated again with the appeal and the Applicant asked the Planning Inspectorate to ask the Council to undertake further public consultation. This was agreed and the consultation took place earlier this year. There are therefore a series of amended drawings and combined drawings though the changes are not significant but the Committee is being asked,

following review of those updated submissions and the responses received from the community, to consider the matter in full and reach a resolution as to what decision the LPA would have taken in light of this. The Applicant may have a different view and may feel that adding concerns now, should the Committee resolve to do so, amounts to unreasonable behaviour justifying seeking an order of Costs in respect of the appeal. Officers are however satisfied that following the latest consultation process it is reasonable for the Committee to consider the key issues for consideration in the determination of the application/ appeal (as set out in paragraph 1.2 of the officer's report) before the Public Inquiry in April 2023.

The Assistant Director confirmed that the Committee was being asked to make a resolution on what the Council would have determined. This is a long-running matter which has attracted significant local concern and ward members have made clear their opposition to the development as proposed in the past.

The Assistant Director drew attention to the Supplementary Matters report including amendments to the report, further representations from the Milton Neighbourhood Planning Forum and a letter of objection from the Rt Hon Stephen Morgan MP. He then introduced the key matters relating to the application as set out in the officer's report.

Deputations

Rod Bailey for Milton Neighbourhood Forum and Planning Forum
Councillor Kimberly Barrett
Councillor Steve Pitt
Councillor Darren Sanders
Councillor Gerald Vernon Jackson

Members' questions

The following points of clarification were offered in response to members' questions:

- Officers could not pre-judge Natural England's response to the Brent Geese survey work being undertaken but it was not anticipated that there would be a significant change to previous outcomes.
- Although Natural England had raised its concerns late in the day (around the January 2022 Committee meeting), it was their view that the Milton Management Framework was out of date, and it will respond once the work to update the mitigation strategy had been completed.
- In relation to traffic movements, standardised databases are used to predict the amount traffic expected. It was officer's view, that it was not reasonable to compare full hospital use traffic with potential residential use and that reduced hospital use was more appropriate for comparison purposes. Although some minor adjustments are needed, the Highways Authority did not raise concerns with the proposals.
- The national, standardised databases for traffic movements have not been updated to take account of post-COVID changes to working patterns including increased working from home. It has been suggested that public transport use has declined post-COVID and there is an increasing reliance on private cars.

- The drawings of the main hospital building shown during the presentation showed the front and rear elevations, not 'existing and proposed' representations as suggested in the deputation by one of the ward councillors.

Accordingly, Councillor Gerald Vernon-Jackson confirmed that he withdrew his comments made in his deputation about the proposed loss of Victorian features to the main hospital building.

The Assistant Director provided the following further points of clarification:

- PCS13 a greener Portsmouth does not apply to all open space but rather 2 limited categories as it states: *"Refusing planning permission for proposals which would result in the net loss of existing areas of open space, as shown on map 21, and those which would compromise the overall integrity of the green infrastructure network in the city, unless there are wider public benefits from the development which outweigh the harm."*
- When the site was a hospital more of the site would have been open, but the public had no right to access to the space. A public access agreement will ensure that the remaining open space will be secured for public access and officers are satisfied that overall, access to open space is increased and this is one of the benefits of the scheme.
- This needs to be balanced against the loss of space elsewhere in the site. Extensive pre application discussions had taken place in relation to where to locate dwellings.
- Although an image of the dwellings in the South East corner of the site was not available, it was confirmed that these would be of a similar design to other properties on the site and will comprise a flat roof and will be brick built.

Member's comments and recommendations

Members commented that in addition to the reasons for refusal set out in the report, the loss of mature trees and open space, particularly in relation to Matron's Gardens was a concern. It was also suggested that the cycle way through the site could be improved.

The Assistant Director confirmed his professional advice that the matter of affordable housing was covered by the officer's recommendation. He referred members to paragraph 7.2 of the report which sought the nomination of a Councillor/ Councillors from the Committee to provide proof of evidence of any additional or alternative reasons for refusal and to defend the decision at the Public Inquiry.

A member of the Committee challenged the need to nominate a Councillor to provide proof of evidence and a defence at the Public Inquiry, stating that this had not been his previous experience and that the Chief Executive, as a former planning professional, could perform this function. The Assistant Director confirmed that this was not a new requirement and that members of the Committee must be accountable for their decisions where they diverge from officers' professional advice.

The Legal Advisor commented that he supported the professional advice given by the Assistant Director and he advised that other authorities put councillors forward to defend reasons for refusal when officers, based on their professional opinion, do not support those reasons. He added that the Royal Town Planning Institute's Code of Professional Conduct, specifically Rules 11 and 12, address this directly and confirmed that the scenario with this application is not a usual situation in Portsmouth.

The Assistant Director confirmed that officers would provide assistance to the nominated councillor, but it is not officers' professional opinion to add reasons for refusal in this case. He strongly rejected the view expressed that officers would not be acting professionally in these circumstances adding that it is normal practice for councillors to defend the decisions they make.

A member of the Committee noted that the Public Inquiry would be taking place in April during the politically restricted, pre-election period (known as purdah) and enquired whether councillors would be able to attend the hearings. The Legal Advisor advised that Council resources would not be deployed to support a political view. The Assistant Director clarified that Public Inquiries have taken place during this period in the past and that it had been raised as an issue with the Planning Inspectorate. The Assistant Director advised that planning decisions are not political by law and that there would be no impediment to ward councillors being present at the Inquiry either as an interested person or designated person.

Members reiterated their concern about the loss of protected trees and open space, particularly on the site known as Matron's Garden and noting such loss is in breach of policies ENV1 and ENV2 of the Milton Neighbourhood Plan.

RESOLVED: That the Secretary of State be advised that had Portsmouth City Council Planning Committee been able to determine the application, it would have resolved to refuse planning permission for the following reasons:

- 1) In the absence of sufficient information being provided for the Habitats Regulations Assessment, as requested by Natural England, there is no certainty around the mitigation strategy which is required to address the likely significant effects in respect of recreational disturbance, as is identified in paragraph 4.1.8 of the Draft Habitats Regulations Assessment (ref. 200127 0991 HRA V1B) dated 18 December 2020 submitted. As such, the proposal should be refused due to the uncertainty regarding unmitigated adverse impact on protected habitats in accordance with the Habitats Regulations.**
- 2) Insufficient viability justification has been provided, noting the uncertainty arising from the cost of mitigation under the Habitat Regulations, to demonstrate that the scheme is unable to provide affordable housing contrary to Policy PCS19 of the Portsmouth Plan 2012.**

The Planning Committee added an additional reason for refusal as follows:

- 3) The loss of protected trees is unacceptable and the replacement tree planting proposals does not enhance and protect the historic landscape. In particular, the loss of trees and open space on the site known as Matron's Garden, is wholly unacceptable and is in breach of policies PCS13 of the Portsmouth Plan and ENV1 and ENV2 of the Milton Neighbourhood Plan.**

The Planning Committee nominated Councillor Chris Attwell, Chair of the Planning Committee, to provide appropriate proof of evidence and the defend the decision at the upcoming Public Inquiry.

The Committee adjourned for 10 minutes at 12.08. Councillor Ian Holder left the meeting during the adjournment.

186. 20/00407/OUT - Post Office, Slindon Street, Portsmouth PO1 1AB (AI 5)

Outline application with all matters reserved except access and scale for the construction of a building up to 19-storeys/62m for circa 176 nos. Dwellings (class C3); parking and servicing with access from Lower Church Path; podium level open space and associated works following demolition and removal of existing buildings and structures (amended description and drawings).

The Assistant Director for Planning and Economic Growth, Ian Maguire, presented the report and drew attention to the Supplementary Matters list which set out a letter of support for the application from Alan Pearce (received on 20 December 2022) on behalf of Fusion Students.

Deputations

Shaun Adam (for the Applicant)
Tom Molyneux-Wright (Agent)

Members' questions

The following points of clarification were offered in response to members' questions:

- The Committee could not impose a condition relating to affordable housing if the result was to make the scheme unviable.
- National policy guidance on this point is clear and officers have seen viability evidence provided by the Applicant which has been independently verified.
- Registered social landlords (RSLs) such as housing associations may have greater access to funding and this scheme does not have an RSL partner.

Member's comments and recommendations

Members noted that paragraph 7.39 in the officer's report addressed the Portsmouth Plan requirements for affordable housing for schemes of more than 15 dwellings. Members commented that notwithstanding the lack of affordable housing, the addition of 176 new dwellings to the City's housing stock was to be

welcomed. It was noted that this is an eye sore site which needs regeneration, and the proposed building matches the height of others in the area.

RESOLVED: That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission within 9 months in order to allow for the completion of legal agreements to secure the following:

- **Provision to secure mitigation in respect of the net increase in Nitrate load (TBCKg/TN/yr) resulting from the proposed development in line with the City Council's Interim Nutrient Neutral Mitigation Strategy. Mitigation to be calculated by the number of new apartments (currently circa 176 beds)**
- **Provision to secure a contribution towards setup/monitoring of Travel Management Plan £5,500.**
- **The Travel Plan itself to be secured by Planning Condition;**
- **Provision to secure the agreement and implementation of an Employment & Skills Plan;**
- **Project Management/Auditing Fee £620 (Employment and Skills Plan). To be controlled by condition.**

187. 20/00152/FUL - Post Office, Slindon Street, Portsmouth PO1 1AB (AI 6)

Change of use of part of building to form hotel (class C1); external alterations to include: construction of two additional storeys, replacement of all facades, formation of roof terraces and demolition of eastern part of the building (amended description and drawings).

The Assistant Director for Planning and Economic Growth, Ian Maguire, presented the report. He drew attention to the Supplementary Matters list which included two additional letters of representation, both in support of the application, and further clarification to Ecology and Biodiversity considerations set out in paragraph 6.58 of the officer's report.

Deputations

Shaun Adam (for the Applicant)

Tom Molyneux-Wright (Agent)

Members' questions

The following points of clarification were offered in response to members' questions:

- The application includes a drop off area including for taxis and coaches. The site is highly accessible, including to the station, and the lack of parking is not considered to be an issue. The Highway Engineer has stated that some modification to the existing junctions with Station Street to resolve highway safety concerns and this would be subject to a separate statutory process.
- The application site sits within the Portsmouth Clean Air Zone where the Council is actively trying to reduce vehicle traffic.
- Regarding nitrates mitigation, the Applicant has advised that it is their intention to enter into a S106 using the Hampshire and Isle of Wight Wildlife Trust credits to offset this.

- There is a move towards utilising land-based credits whereby farmland is managed to ensure less nitrate washing into Solent waters.

Member's comments and recommendations

Members welcomed the development of the site and looked forward to seeing the detailed drawings.

RESOLVED: That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission within 9 months in order to allow for the completion of legal agreements to secure the following:

- **Provision to secure mitigation in respect of the net increase in Nitrate load (TBCkg/TN/yr) resulting from the proposed development in line with the City Council's Interim Nutrient Neutral Mitigation Strategy. Mitigation to be calculated by the number of hotel bedrooms (currently 218-beds) x £903.82) - Total £197,032.76;**
- **Provision to secure a contribution towards setup/monitoring of Travel Management Plan £5,500. The Travel Plan itself to be secured by Planning Condition;**
- **Provision to secure the agreement and implementation of an Employment & Skills Plan;**
- **Project Management/Auditing Fee £620 (Employment and Skills Plan). To be controlled by condition.**

Councillor Linda Symes left the meeting at 12.47pm.

188. 22/00427/HOU - 43 Military Road, Hilsea, Portsmouth PO3 5LS (AI 7)

Construction of mansard roof to form additional storey.

The Assistant Director for Planning and Economic Growth, Ian Maguire, presented the report. He drew attention to the Supplementary Matters list which included a letter of objection from a neighbour and four additional letters of objection. The concerns raised have been addressed within the officer's report.

Councillor Russell Simpson informed the Committee that he had not asked to make a deputation on this matter.

Deputations

Pete Keniston, objecting

Councillor Scott Payter-Harris

Moe Horswell had been due to make a deputation (objecting) but she was not present and it was read out by Councillor Russell Simpson on her behalf.

Members' questions

The following points of clarification were offered in response to members' questions:

- The property was granted conditional permission for the construction of a new second floor with mansard roof in 2008 having been previously refused permission in 2006. The 2008 permission has expired.
- The property is unusual, comprising a flat roof and red-brick, render and timber-cladding.
- The surrounding area is made up of detached, semi-detached and terraced building which differ substantially in design.
- The officer was unable to confirm how many properties in the area had a flat roof or when it was originally built.
- Members were reminded that every application must be determined on its own merits and that the application in 2008 was deemed to be acceptable on that site.
- The development may interrupt the views and sunlight to neighbouring properties, but officers were satisfied that this would not comprise an unreasonable impact. The right to a view is not material.

Member's comments and recommendations

Members expressed concern that the development would be uncharacteristic of the area which had a village feel. Concerns about the additional storey being deleterious to the neighbouring properties and resulting in the loss of light and quiet enjoyment of their property were expressed.

Some members felt that the proposal would result in a building which was too tall and out of character for the area and suggested that a light study should have been undertaken. Other members were less concerned about the height of the proposal but did not feel that the design was suitable, fit in with the existing building or was of sufficient quality for the site.

RESOLVED that the application be refused for the following reasons:

The proposed construction of an additional floor at roof level would, by virtue of its excessive bulk and design, represent an overbearing and unneighbourly development, detrimental to the amenities of adjoining occupiers notably in terms of their outlook and is contrary to policy 23 of the Portsmouth Plan 2012.

189. 22/01490/VOC - 1-40 Lombard Court, Lombard Street, Portsmouth (AI 8)

Application to vary condition 3 of planning permission 22/00502/FUL in relation to paint colour of roof terrace balustrade.

The Assistant Director for Planning and Economic Growth, Ian Maguire, presented the report.

There were no questions or comments.

RESOLVED to grant Conditional Permission as set out in the officer's report.

190. 22/01451/FUL - 55 Bedhampton Road, Portsmouth PO2 7JX (AI 9)

Change of use from dwelling house (class C3) to purposes falling within classes C3 (dwelling house) or C4 (house in multiple occupancy).

The Assistant Director for Planning and Economic Growth, Ian Maguire, presented the report.

Deputations

Simon Hill, for the Applicant, was due to make a deputation but he was not present.

Members' questions

The following points of clarification were offered in response to members' questions:

- The bathroom, though slightly under-sized is considered acceptable as it was for the use of two residents as the other bedrooms have the use of an en-suite.
- The additional living room makes up for the inadequacies of the kitchen dining room and it is considered that the living room is required for communal living to ensure a reasonable living environment for the six residents.
- The retention of the living room is therefore protected by condition.

Member's comments and recommendations

Members accepted that the bath in the shared bathroom on the first floor was an acceptable compromise which offset it being under-size.

Members welcomed the additional condition to prevent the conversion of the living room into an additional bedroom, while noting that the Applicant could apply to have the condition removed before making an sui generis application in the future.

RESOLVED to grant Conditional Permission as set out in the officer's report.

191. Planning Committee meeting dates (AI 10)

RESOLVED: To agree the meeting dates for the municipal year 2023/24 as follows:

31 May 2023

21 June 2023

12 July 2022

2 August 2023

23 August 2023

13 September 2023

4 October 2023

25 October 2023

15 November 2023

6 December 2023
10 January 2024
31 January 2024
21 February 2024
13 March 2024
3 April 2024
24 April 2024

The meeting concluded at 13.27 pm.

Signed by the Chair of the meeting
Councillor Chris Attwell