

PLANNING COMMITTEE

MINUTES OF THE MEETING of the Planning Committee held on Wednesday 23 August 2023 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
Lee Hunt
Peter Candlish
Raymond Dent
Asghar Shah
John Smith
Mary Vallely
Gerald Vernon-Jackson CBE

Also present:

Councillor Benedict Swann
Councillor Russell Simpson

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 in case of a fire.

108. Apologies (AI 1)

Apologies had been received from Councillors Hannah Brent and Judith Smyth. Councillors Gerald Vernon Jackson and Asghar Shah apologised that they would have to leave for other meetings at 12.30pm.

The meeting was adjourned for a short break at 12.32pm and recommenced at 12.38pm.

109. Declaration of Members' Interests (AI 2)

There were none.

110. Minutes of the previous meeting held on 2 August 2023 (AI 3)

RESOLVED that the minutes of the Planning Committee meeting held on 2 August 2023 be agreed as a correct record.

Planning Applications

The Supplementary Matters report (SMAT) and the deputations (which are not minuted) can be viewed on the council's website at [Agenda for Planning Committee on Wednesday, 23rd August, 2023, 10.30 am Portsmouth City Council](#)

The Chair altered the order of the agenda to hear the items as follows:

Item 5 - 23/00676/FUL 61 St Chads Avenue, Portsmouth PO2 0SD

Item 6 - 23/00322/FUL 27 Queens Road, Fratton, Portsmouth PO2 7LT

Item 7 - 23/00097/FUL 76 Oriel Road, Portsmouth PO2 9EQ

Item 9 - 23/00640/FUL 57 Northern Parade, Portsmouth PO2 9PD

Item 4 - 23/00547/FUL 52 Beaulieu Road, Portsmouth PO2 0DN

Item 8 - 23/00551 47 Belgravia Road, Portsmouth PO2 0DX

Item 10 - 23/00571/FUL 7 Magdala Road, Portsmouth PO6 2QG

Item 11 - 23/00690/FUL Unit 14 Fitzherbert Spur, Portsmouth PO6 1TT

The minutes remain in the order of the published agenda.

111. 23/00547/FUL 52 Beaulieu Road, Portsmouth PO2 0DN (AI 4)

Change of use from a Class C3 dwellinghouse to a 7-bed/7-person House in Multiple Occupation.

The Interim Head of Development Management introduced the officer's report and drew Members' attention to the Supplementary Matters Report which included an objection from Councillor Daniel Wemyss, set out in Appendix 1 of the SMAT. There was no change to the officer's recommendation.

Deputations

Deputations were made by Mike Russell (objecting) and Carianne Wells (Agent) who spoke in support of the application.

Members' questions

In response to Members' questions, officers clarified:

- Guidance on HMOs for the Committee is set out in the HMO Supplementary Planning Document (SPD) and this includes details of what comprises a shared or communal space.
- The guidance does not include details such as the space taken by units and appliances in a kitchen and is based on room size only.
- The Committee may take a view on the configuration and use of the communal space, which in this case exceeds the council's space standard.
- The Planning Department errs on the side of caution when counting HMOs within 50 metres of an application site, by using three data sources and investigating any alleged further HMOs identified by neighbours or councillors.
- In the current HMO SPD, a combined living space (communal area) is defined as, "a single, typically open plan space, usually containing a kitchen, dining area and living area, laundry and utility space".

Members' comments

- Councillor Hunt moved refusal as he was concerned about the combined living space, suggesting that kitchens are not communal; that once the space taken by kitchen units and appliances is taken into account the communal space did not meet the council's space standards and the Planning Inspector has agreed layout is a factor in the past.

Councillor Gerald Vernon-Jackson commented that he had sympathy with this point but believed the council's policy includes kitchens as communal spaces. He noted that the SPD could be more specific in relation to communal spaces. It was agreed that officers be asked to review the definition of communal space during the development of the Local Plan.

Councillor Gerald Vernon-Jackson, as Cabinet Member for Transport, commented that some Members of the Planning Committee have remarked on comments expressed by the highways officer in planning reports. He suggested that an informal meeting be set up with transport officers to discuss these, and this was agreed.

RESOLVED:

- 1) That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to:**
 - a. satisfactory completion of a Legal Agreement necessary to secure the mitigation of the impact of the proposed residential development on Solent Special Protection Areas (recreational disturbance and nitrates) by securing the payment of a financial contribution and conditions (set out in the officer's report)**
- 2) That delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary.**
- 3) That delegated authority be granted to the Assistant Director of Planning & Economic Growth to refuse planning permission if a Legal Agreement has not been satisfactorily completed within three months of the date of this resolution.**

112. 23/00676/FUL 61 St Chads Avenue, Portsmouth PO2 0SD (AI 5)

Change of use from dwellinghouse (Class C3) to 7-bed/7-person House in Multiple Occupation.

The Interim Head of Development Management introduced the officer's report and drew Members' attention to the Supplementary Matters Report which included late comments including an objection from the Battenburg Child Development Centre and Councillor Benedict Swann. Comments had also been received from Councillor Daniel Wemyss and were included as Appendix 1 to the Supplementary Matters Report. There was no change to the officer's recommendation as the changes to the application were minor and did not require further consultation.

Deputations

Deputations were made by John Mallory and Karen Mckeown (objecting). John Stait had been due to make a deputation but did not speak as the time allowed for objections had been exceeded. Councillors Benedict Swann and Russell Simpson, who had called in the application, made deputations objecting. Carianne Wells (Agent) made a deputation in support of the application. Councillor Benedict Swann circulated a photograph submitted by John Stait to members of the Committee (but not to the Planning Officer or Legal Officer) and read a statement from Councillor Daniel Wemyss relating to flood risk in the vicinity of the property.

Members' questions

In response to Members' questions, officers clarified:

- The extension and other building work to the property is being undertaken as permitted development and would therefore be allowed whether for a family home or HMO.
- Permitted development may take place even if it has an impact on neighbours and concerns relating to bulk, sense of enclosure, overlooking or loss of light are not therefore for consideration by the Committee.
- Some windows do need to be frosted or of a certain size if on the side of a property, but this is not the case for this application as the windows are on the back of the house and in any event are not of concern as there is already overlooking from other windows.
- Some other councils have a policy relating to distance separation for windows, Portsmouth does not.
- The application only relates to change of use to an HMO by 7 persons, not the 14 persons alleged in the Deputations.

The Interim Head of Development Management confirmed that:

- The Committee should not consider the impact of permitted development in its decision making.
- The Planning Inspector does not give weight to the *number* of objections but will take material objections into account before making a judgment.
- The officers' view is that parking is not a reason to refuse as a family home could have a similar level of car ownership and use and the highways officer sees no difference between parking demand for family use and HMO usage.
- The Planning Committee may take account of concerns relating to flood risk associated with sewerage, although water usage by a 7 person household may not be greater than a family with small children.
- In any event, the water supplier must provide adequate services and this falls outside the planning regime.
- There have been two instances of a house collapse in the last year, from recollection one due to poor building work and one because of a gas leak.
- Building work at the property will be monitored by the building control department.
- The information on the number of HMOs within 50 metres comes from three data sources plus information from ward Councillors and residents. It is

therefore as reliable as possible, and it is unlikely that there are any unknown HMOs in the area.

- This is a small scale development and unlike large developments where drainage and flood risk may be relevant, it is unlikely to be material in this case although every application must be determined on its own merits.

Members' comments

- Members noted that permitted development rules give little opportunity for the Committee to refuse an application and that Portsmouth City Council has some of the strongest HMO standards on the south coast.
- The proposal to change this property to a 7-bedroom property will add to the pressure on water and sewerage services and increase flood risk.
- Some Members considered deferral to get more information from Southern Water about the potential for increased localised flood risk.

The Interim Head of Development Management commented that planning applications may bring in issues dealt with by other regimes, for example structural issues are dealt with by building control. It is *ultra vires* for planning to be involved with drainage as this is the responsibility of Southern Water. He noted that, at appeal, most applicants do not seek costs. However, imposing conditions or refusing this application because of flood risk would, in his professional opinion, lead to the appeal being dismissed and a cost claim awarded against the council.

The Interim Head of Development Management offered his professional opinion that deferring would not produce information that would have any bearing on the decision.

A proposal to refuse the application for planning permission was put forward and seconded. The vote was taken, and the motion passed.

A proposal to defer the application was put forward and seconded but it was not necessary to vote on the motion.

RESOLVED to refuse permission.

- 1) It is not considered that there is adequate capacity available for drainage resulting from the proposed occupation of the site, nor details to provide confidence to the Council that additional capacity will be provided prior to occupation, resulting in an unacceptable reduction to the level of foul water disposal service and local surface water flood risk contrary to Policy PCS12 (flood risk) of the Portsmouth Plan 2012.**
- 2) The proposed development would result in a significant effect on the Solent Special Protection Areas, through additional recreational pressures and nitrates, with mitigation against these impacts being required. No justification or mitigation measures have been secured and, until such time as this has been provided, the proposal would have a significant detrimental impact on the Special Protection Areas, contrary to Policy PCS13 of The Portsmouth Plan (2012), the Conservation of Habitats and Species Regulations (2017) (as**

amended), the Wildlife and Countryside Act (1981), and Section 15 of the National Planning Policy Framework (2021).

113. 23/00322/FUL 27 Queens Road, Fratton, Portsmouth PO2 7LT (AI 6)

Change of use from dwellinghouse (Class C3) to purposes falling within Classes C3 (dwellinghouse) or C4 (House in Multiple Occupancy).

The Interim Head of Development Management introduced the officer's report noting that the application meets room standards, and its layout is considered satisfactory.

Deputations

A deputation was made by Tri Tran objecting. Councillor Benedict Swann made a deputation on behalf of a resident, Matthew Whealan, who was unable to attend the meeting. Simon Hill (Agent) spoke in support of the application.

Councillor Gerald Vernon-Jackson left the meeting at 12.20pm and took no part in this item.

Members' questions

In response to Members' questions, officers clarified that the application meets the council's space standards.

Members' comments

Members noted that Portsmouth has some of the strictest space standards for HMOs, that HMOs are strictly licenced and there were no grounds for refusal.

Councillor Asghar Shah left the meeting at 12.29pm, before the vote.

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

114. 23/00097/FUL 76 Oriel Road, Portsmouth PO2 9EQ (AI 7)

Change of use from dwellinghouse (Class C3) to purposes falling within dwellinghouse (Class C3) or House in Multiple Occupation (Class C4).

The Interim Head of Development Management introduced the officer's report and confirmed the application met the council's space and layout standards and was therefore deemed acceptable. He drew Members' attention to the Supplementary Matters Report which included comments by Councillor Daniel Wemyss, included in Appendix 1 of the SMAT. There was no change to the officer's recommendation.

Deputations

A deputation was made by Carianne Wells (Agent) in support. Councillor Russell Simpson made a deputation on the application.

Members' questions

In response to Members' questions, officers clarified:

- Crime and anti-social behaviour may be considered in the round when considering an application, but Members should not draw the conclusion that every HMO will bring anti-social behaviour.
- It is not believed to be a contravention of building regulations to locate a WC and shower directly off a kitchen.
- The Study does not have direct access to an ensuite shower room.
- There is no information available to indicate whether the Applicant would seek to turn the Study into a bedroom in the future.

Councillor Gerald Vernon-Jackson returned to the meeting at 12.50pm and took no part in the voting on this item as he had not been present for the officer's presentation.

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

115. 23/00551 47 Belgravia Road, Portsmouth PO2 0DX (AI 8)

Change of use from a Class C3 dwellinghouse to a 7- bed/7 person House in Multiple Occupation.

The Interim Head of Development Management introduced the officer's report and drew Members' attention to the Supplementary Matters Report which included comments by Councillor Daniel Wemyss which were set out in Appendix 1. There was no change to the officer's recommendation.

Deputations

A deputation was made by Carianne Wells (Agent) in support of the application.

Members' questions

In response to Members' questions, officers clarified that:

- The submitted plans provided an indicative layout for the kitchen which included a double sink and 4-ring hob and that the tank room is on the first floor.
- Bikes would need to be wheeled through the house, including the kitchen, and that the Planning Inspector has tended to note that this takes just a few moments before people settle back down to their activities.

Members' comments

Some members expressed concern about the size of the kitchen and felt that it was more appropriate for a small family rather than a household of 7 adults.

The Legal Advisor noted, and the Interim Head of Development Management agreed, that the Licensing regime has strict standards relating to numbers of cookers and other appliances for HMOs. The Applicant also indicated that these regulations were very strict. The Interim Head of Development Management confirmed that the application complied with the council's space standards, including in relation to the communal space.

RESOLVED:

- 1) That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to:
 - a. Receipt of 'no objection' from Natural England concerning the SPA Mitigation, and;
 - b. Satisfactory completion of a Legal Agreement necessary to secure the mitigation of the impact of the proposed residential development on Solent Special Protection Areas (recreational disturbance and nitrates) by securing the payment of a financial contribution.
- 2) That delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary.
- 3) That delegated authority be granted to the Assistant Director of Planning & Economic Growth to refuse planning permission if a Legal Agreement has not been satisfactorily completed within three months of the date of this resolution.

116. 23/00640/FUL 57 Northern Parade, Portsmouth PO2 9PD (AI 9)

Change of use from a Class C3 dwellinghouse to a 7-bed/7-person House in Multiple Occupation.

The Interim Head of Development Management introduced the officer's report and drew Members' attention to the Supplementary Matters Report which included a correction to paragraph 8.8 of the officer's report. Comments by Councillor Daniel Wemyss were included in Appendix 1 of the SMAT. There was no change to the officer's recommendation.

Deputations

A deputation was made by Carianne Wells (Agent) in support of the application. Councillor Russell Simpson made a deputation.

Members' questions

In response to Members' questions, officers clarified that changing the use of the sitting room previously approved to a bedroom would result in a loss of communal space but that the application nonetheless complied with the council's space standards.

Members' comments

Some Members felt that this application reflected unmitigated greed by the developer. However, it was agreed that the rooms, including the communal area, are larger than required, that the application is of high quality and the Applicant had said it would be well executed. Members also considered that unlike other HMO applications, this one had usable bike storage.

Councillor Lee Hunt commented that he did not accept that the kitchen should be included as communal space.

The Interim Head of Development Management advised Members that this application must be considered on own merits and should not be considered with other, or previous, applications in mind. He also verbally corrected the percentage of HMOs resulting in the 50m radius.

A proposal to approve the application as set out in the officer's report was put forward and seconded. The vote was taken, and the motion passed.

A proposal to refuse the application was put forward and seconded but it was not necessary to vote on the motion.

RESOLVED:

- 1) **That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to:**
 - a. **Receipt of no objection from Natural England;**
 - b. **Satisfactory completion of a Legal Agreement necessary to secure the mitigation of the impact of the proposed residential development on Solent Special Protection Areas (recreational disturbance and nitrates) by securing the payment of a financial contribution. and conditions (set out in the officer's report)**
- 2) **That delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary.**
- 3) **That delegated authority be granted to the Assistant Director of Planning & Economic Growth to refuse planning permission if a Legal Agreement has not been satisfactorily completed within three months of the date of this resolution.**

117. 23/00571/FUL 7 Magdala Road, Portsmouth PO6 2QG (AI 10)

Change of use from a Class C3 dwellinghouse to a 7-bed/7-person House in Multiple Occupation.

The Interim Head of Development Management introduced the officer's report, noting that the presentation showed the correct configuration of the dormer extension.

Deputations

A deputation was made by Carianne Wells (Agent) in support of the application.

Members' questions

There were none.

RESOLVED:

- 1) **That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to:**
 - a. **Satisfactory completion of a Legal Agreement necessary to secure the mitigation of the impact of the proposed residential development on Solent Special Protection Areas (recreational**

disturbance and nitrates) by securing the payment of a financial contribution and conditions (set out in the officer's report).

- 2) That delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary.**
- 3) That delegated authority be granted to the Assistant Director of Planning & Economic Growth to refuse planning permission if a Legal Agreement has not been satisfactorily completed within three months of the date of this resolution.**

- 118. 23/00690/FUL Unit 14 Fitzherbert Spur, Portsmouth PO6 1TT (AI 11)**
Installation of 2.4m high mesh wire fence with gates and soft landscaping fronting Hardy Road (amended description).

The Interim Head of Development Management introduced the officer's report.

Members' questions

In response to Members' questions, officers clarified that access to the site would be through two gates.

Members' comments

Some Members commented that officers had done well to seek a change to the materials for the fence as the wire mesh fence would be harder to climb and residents would be able to see new landscaping planted inside the perimeter. Councillor Gerald Vernon-Jackson felt that rubbish would build up inside the fence, would be visible and become an eyesore.

A proposal to grant permission for the application as applied for was put forward and seconded. The vote was taken, and the motion passed.

A proposal to refuse the application was put forward but was not considered as it was not seconded and the motion to grant permission had been passed.

RESOLVED: to approve the application subject to conditions set out in the officer's committee report.

119. Update on the St James's Hospital Inquiry

At the beginning of the meeting, the Chair invited the Interim Head of Development Management to provide members of the Planning Committee with an update on the St James's Hospital Inquiry. The Interim Head of Development Management informed Members that the decision on the appeals for non-determination by the Council had now been received and the appeals for the two applications had been allowed. Therefore, planning consent and listed building consent has been granted. The government Inspector had noted the Committee's concerns relating to the loss of trees and green space but felt that this was outweighed by the benefits of 209 additional dwellings helping to meet housing need in the city as well as productive re-use helping to protect listed buildings.

In response to a question from a Member, the Interim Head of Development Management informed the Committee that the developer had not sought costs against the Council and the Inspector had not imposed costs unilaterally.

Councillor Gerald Vernon-Jackson commented that this was a sad decision by the government Inspector and was not in line with residents' wishes. It would result in the loss of 50 protected trees and, notwithstanding the addition of 209 new homes, the development would provide no affordable housing for local people. He commented further that the Inspector had overruled the Planning Committee again and that local people would have to cope with adverse effects of the decision.

Councillor Lee Hunt commented that Members should continue to make decisions it considers to be right, and not be scared by concerns of costs being imposed at appeal.

The meeting concluded at 2.12pm.

Signed by the Chair of the meeting
Councillor Chris Attwell