

PLANNING COMMITTEE

MINUTES OF THE MEETING of the Planning Committee held on Wednesday, 16 September 2015 at 5.00 pm in The Executive Meeting Room - Third Floor, The Guildhall

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

Present

Councillors Aiden Gray (Chair)
Stephen Hastings (Vice-Chair)
Jennie Brent
Ken Ellcome
David Fuller
Colin Galloway
Scott Harris
Hugh Mason
Sandra Stockdale
Gerald Vernon-Jackson

Also in attendance

Councillors Luke Stubbs, Linda Symes and Matthew Winnington.

Welcome

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

Guildhall, Fire Procedure

The chair, Councillor Gray, 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.

88. Apologies for absence (AI 1)

Apologies for lateness were received from Councillor Vernon-Jackson, who was a few minutes late.

89. Declaration of Members' Interests (AI 2)

Councillor Vernon-Jackson declared an interest in respect of planning application 2 - Northern Pavilion and Bowling Green Adjacent to Eastern Parade, Canoe Lake, Southsea Esplanade - in that he had been involved in discussions with the applicant and felt that it would be prudent to leave the room during the discussion of this application.

90. Minutes of Previous Meeting - 12 August 2015 (AI 3)

RESOLVED that the minutes of the Planning Committee meeting held on 12 August 2015 be approved as a correct record and signed by the chair.

91. Code for Councillors and Officers in respect of Planning Matters - an introduction (AI 4)

The Senior Solicitor (Planning) summarised the revised Code for councillors and officers in respect of planning matters. She advised members that the Planning Code was in place to both protect the Council and help councillors. The Code applies to any member of the Council who engages with development planning and management and all councillors should familiarise themselves with the Code. Paragraph 4.3 is a most important paragraph for councillors: it was advised that if members think they may have an interest, advice should be sought from the Monitoring Officer or Deputy Monitoring Officer prior to the Planning Committee. Following changes to legislation it may be a criminal offence if a member does not declare any disclosable pecuniary interest which relates to any matter and including planning matters: the Councillors' Code of Conduct should be referred to.

Councillor Hugh Mason referred to paragraph 12.8 of the Code and said that councillors are often approached by neighbours to a potential application site or other interested parties. He asked whether councillors should produce a clear written note for the City Development Manager recording what has been discussed and any comments or advice given, in these situations. The Senior Solicitor (Planning) advised this would be for the councillor to judge and decide whether in hindsight they would regret not producing a note.

RESOLVED that the Committee note the revised code.

92. Updates by the City Development Manager on previous planning applications (AI 5)

There were no updates.

93. Planning appeal decision relating to 591 London Road, Hilsea (AI 6)

(TAKE IN REPORT BY THE ASSISTANT DIRECTOR OF CULTURE AND CITY DEVELOPMENT)

The Assistant Director of Culture and City Development introduced the report.

In response to a question regarding challenging the inspector's decision, she advised that the inspector had fully considered all issues and it was a robust decision. It was therefore not in the Council's interest to pursue a judicial review into the decision. Councillor Ellcome wished to formally register his disappointment with the Planning Inspector's decision and felt this was another example of interference from outside, disregarding the professional advice of the council's planning officers.

RESOLVED that the report be noted.

94. 15/00862/FUL - 94 Napier Road Southsea PO5 2RB - Change of use from dwelling house (Class C3) to purposes falling within Class C3 (dwellinghouse) or C4 (house in multiple occupation) (AI 7)

(TAKE IN REPORT BY THE ASSISTANT DIRECTOR OF CULTURE AND CITY DEVELOPMENT)

The Assistant Director of Culture and City Development reported in the supplementary matters list that an amended ground floor plan was been received (16/9/15). This includes the recently constructed single storey extension to the rear of the property which has resulted in amendments to the internal layout and the inclusion of a bedroom adjacent to the front door (increasing the total number of bedrooms within the property to four). The plan also identifies a new location for bin and cycle storage.

The recommendation for the application is unchanged, except for the substitution of condition 3 with the following amended wording in relation to cycle provision:

" Prior to the first occupation of the property as a Class C4 HMO, or such other period as may be agreed in writing by the Local Planning Authority, cycle storage facilities shall be provided in accordance with a detailed scheme to be submitted to and approved in writing by the Local Planning Authority. These facilities shall thereafter be retained for the use of occupiers of the property for that purpose".

A deputation was heard from Mr Lancaster, on behalf of the applicant, who included the following points in his representations:

- Concerns had been raised that the property would be let to six people but they would only be renting to four.
- No decision had been made as to whether to rent to students, professionals or a family.
- If they did rent to students, it would be very unlikely they would own cars as students often cannot afford to run cars. The University of Portsmouth also encourage students not to bring cars, whereas if the property was occupied by a family they may own one or two cars.
- Students only occupy properties for a small portion of the year.
- Not all students are noisy neighbours and there is no guarantee a family would not be noisy.
- The University of Portsmouth currently has 21,000 students and has stated there is not enough student accommodation in the city.
- Students deserve housing as much as families.
- The change of use would not exceed the 10% threshold for HMO's in the vicinity.

A deputation was heard from Councillor Symes, objecting to the application, who included the following points in her representations:

- She had looked at the electoral roll which showed that there are currently 13 properties that are not registered to vote and 17 with unrelated people living in them, in the vicinity of the application site, suggesting that there are more HMO's than the Council are aware of, potentially exceeding the 10% threshold.

- Students often do have cars and another 2-3 cars in the road would add to the parking problems.
- Student lifestyles are different to that of a family.
- The neighbouring residents that she has spoken to talk about the friendly feel of the area being eroded due to many houses being used as HMO's.
- Neighbouring properties who had objected did not have notification that the application was coming to committee.
- Understands the need for student accommodation but this is not the right area.
- She suggested that the committee defer the application to enable an audit of HMO properties in the area.

Members' questions

Members sought clarification on the addresses of the two properties registered on the 2014 database as HMO's that were no longer classed as C4 use. Officers advised there were 69 Duncan Road and 6 Lowcay Road. Neither had planning permission for C3/C4 use or a permit for a HMO licence and there was no evidence to suggest they were being used as HMO's. A member advised that 37 Napier Road was being used as a HMO and there are others in the vicinity. Officers advised that they had been made aware that 37 Napier Road was a possible HMO, however there was no planning history or other evidence to suggest this was being used as a HMO.

In response to a question about whether officers physically visit suspected HMO properties, officers advised that they check if properties are being used as HMO's using the council tax records, however they would not usually go and knock on doors to ask who is living in the property as this can be sensitive and intrusive. If there is an allegation of an HMO though they would investigate this further. If members have evidence that a property is being used as a HMO they should advise the planning department to enable further investigation.

In response to a question about whether the kitchen extension needed planning permission, officers advised that this did require permission notwithstanding that the extension has already been built and that the applicant has been made aware of this. A retrospective application is anticipated. In response to a further question, officers advised that there was no rear access to the property so bikes would need to be moved through the house out to the cycle storage area.

Members asked Councillor Symes whether she had the addresses of the suspected HMO properties in the vicinity of the application site that she referred to in her deputation however she advised she did not have these.

In response to a question regarding how many HMO properties would tip the 10% threshold, officers advised roughly two more HMO properties would exceed the threshold.

In response to the point made in Councillor Symes' deputation about neighbouring properties not being advised the application was coming to today's committee, the Assistant Director of Culture and City Development advised that a decision was made approximately six years ago, that letters would not be sent out to all those who

had objected/supported an application unless they specifically ask to make a deputation at the planning committee, and advising them to follow the status of the application on the council's website. This was explained in the initial letter to them.

Extensive work had taken place to determine the number of HMO properties in the vicinity and officers had worked with a number of teams in the Council and used all this information when writing their report however further properties had been highlighted following today's discussion so further investigation of this might be necessary.

Members Comments

Members agreed that there as there were outstanding issues and potentially more HMO properties in the vicinity which would affect their decision, it would be sensible to defer this application to allow officers to carry out an audit of HMO properties in the vicinity.

Resolved that the application be deferred to allow officers to complete an audit of HMO properties in the vicinity.

- 95. 15/01161/FUL - Northern Pavilion And Bowling Green Adjacent To Eastern Parade Canoe Lake Southsea Esplanade - Change of use from bowls club to day nursery; external alterations to pavilion to include construction of front and side extensions, new pitched roof, veranda and cladding; landscaping to include canopies, play equipment and raised planters; and associated boundary treatments, refuse storage facilities and entrance (Re-submission of 14/00414/FUL) (AI 8)**

Councillor Vernon-Jackson left the room at the start of this item due to his interest.

(TAKE IN REPORT BY THE ASSISTANT DIRECTOR OF CULTURE AND CITY DEVELOPMENT)

The Assistant Director of Culture and City Development introduced the report and reported that amended plans have been received to reflect the development "as-built" and further consultee responses and representations, as set out below.

Representations

Two further letters of representation (seven in total) have been received raising objections on similar grounds to those previously reported and addressed within the main Planning Committee Report.

Highways Engineer

Many residential properties to the north benefit from off road parking facilities with additional unrestricted on-road parking provided along Eastern Parade and the adjoining side roads. In the absence of any parking restrictions or requirement for payment, these roads can be busy with visitors to the Canoe Lake area and the wider seafront, particularly at weekends and week days during summer months. However, it is considered that the area does not suffer from any significant parking issues that are common elsewhere within the city.

Notwithstanding the generally light traffic flows on the surrounding highway network which encourages walking and cycling, it is accepted that the proposal would result in a number of children arriving and leaving the site by car. Activity associated with the pick-up and drop-off of children at a nursery would generally be spread across a longer period when compared to that of a school, and will vary depending on parents working patterns. This would reduce the number of vehicles manoeuvring during any given period, unlike a school, where all pupils start and finish at the same time. Regard must also be given to the previous lawful use of the site as a bowling club where there was not only a demand for pick-up and drop-off, but also a requirement for long term parking spaces for members of the club throughout the day.

Given the proposed hours of operation the nursery would not affect resident and visitor parking facilities during the evening and weekends. Furthermore, and as highlighted above, having regard to the proximity of residential development within the surrounding area and the ease of access on foot, it cannot be assumed that all staff and children would arrive by car. The accident analysis for the past 5-year period indicated no pedestrian injury accidents in the vicinity of the site. With ample on street car parking available in the surrounding area and general light trafficking; the proposal is unlikely to have a significant impact on the adjoining highway.

Recommendation - No objection subject to conditions in respect of refuse storage.

Environmental Health

A similar application has been approved on appeal (14/00414/FUL). Since the environment has not changed since the appeal was allowed by the Planning Inspectorate previous comments will be reiterated. Due to the nearest noise sensitive property being 28m away, any noise associated with the outside play area within the nursery grounds will be masked by the intense use and high activity background noise. Any noisy activity generated by the proposed use would not be unduly intrusive as the nursery will only operate from 07:00 to 18:30 Monday to Friday, therefore it would not cause an adverse impact upon sleep or relaxation at the weekends. There are also a number of nurseries that operate throughout the city that are within a closer proximity to residential accommodation than the northern pavilion. Environmental Health have not received any complaints concerning the running of these learning establishments in relation to noise.

In summary, it is unlikely that a loss of amenity will be caused to the nearest residential accommodation. Therefore, no objection is raised to this application being granted.

Sport England

The site is not considered to form part of, or constitute a playing field as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2010 (Statutory Instrument 2010 No.2184), therefore Sport England has considered this a non-statutory consultation and has not applied its planning policy- A Sporting Future for the Playing Fields of England.

Sport England consulted England Bowls (EB) as the National Governing Body for Bowls to seek comments on this proposed development. This green and the other one to the south were previously home of three Bowling Clubs. EB advised that Portsmouth City Council wrote to the Canoe Lake Bowling Association (CLBA) in 2012 advising them that the existing lease on the clubhouse would terminate and if the Association wished to continue using the facility they would need to maintain the greens and associated building. The Association were not in a financial position to do so which resulted in them leaving the facilities and finding alternative arrangements.

Paragraph 70 of the National Planning Policy Framework (NPPF) requires policies to plan positively for the provision and use of shared space, community facilities and other local services including sports venues to enhance the sustainability of communities and residential environments. Decisions should guard against the unnecessary loss of valued facilities and services.

Paragraph 74 includes a strong presumption against building on open space and other sports and recreation building unless one of the three strict criteria can be met:

- Assessment has shown the open space, building or land to be surplus to requirement
- Proposed loss to be replaced by equivalent or better provision in terms of quality and quantity in a suitable location.
- Development is for an alternative sports and recreational provision which clearly outweighs the loss of existing.

If the Council are minded to approve the application it must be satisfied that the proposal complies with paragraph 74 of the NPPF and Policy PCS13 A Green Portsmouth (Core Strategy) which identifies this bowling green for protection.

In the absence of a detailed justification demonstrating that the proposed development complies with paragraph 74 of the NPPF, Sport England formally objects to the loss of this built sports facility.

This application has not significantly changed the proposal, in the fact it would still result in the loss of a built sports facility and no further justification demonstrating that the development complies with paragraph 74 of the NPPF has been provided. Therefore Sport England's view of the development remains the same i.e. It is not considered to comply with Paragraph 74 of the NPPF.

Notwithstanding the above, Sport England recognises that the principle of the development is established by the granting of planning permission. The Local Authority must therefore consider Sport England's objection along with all other material considerations including the extant permission.

Conditions

Amended drawings have been submitted to correct slight discrepancies. Condition 2 has been amended to reflect the revised drawings.

Officers advised that whilst the concerns of Sport England are noted, as highlighted within their consultation response, the LPA must consider Sport England's comments

along with all other material considerations including the previous decision of the Planning Inspector.

Having regard to that decision and the justification provided by the applicant as part of the previous planning application/appeal in accordance with paragraph 74 of the NPPF, it is considered that an objection on the grounds of insufficient justification or the loss of a built sports facility could not be sustained.

Recommendation unchanged, subject to a minor amendment to the wording of Condition 2.

A deputation was made by the applicant, Mrs McMinn, whose points included:

- There is a demand for early years provision in the area and this is a stunning location.
- The roof has been redesigned to make it more in keeping with the surrounding buildings.
- Has past experience of operating a nursery in a residential area.
- Has a good relationship with neighbours and has been liaising with them with regards to their concerns about noise and parking.

A deputation was made by Councillor Stubbs, whose points included:

- The application already has approval to accommodate 49 children, the applicant has now been reduced to 43 children which will cause less issues with parking and noise.
- The principle of having a nursery on this site is already established.
- Design of the building is now much improved and in the style of surrounding buildings.

A deputation was made by ward councillor Councillor Winnington whose points included:

- The design of the building is much better than the original application.
- Has some concerns about work being done before planning permission had been approved.

Members' questions

In response to a question about the size of the site, officers advised this was 2,805 square metres.

Members' comments

Members felt that as the proposed application would only be 1% of the total size of the site and the design of the building was much improved that the officer's recommendation should be approved.

RESOLVED that delegated authority given to Assistant Director of Culture & City Development to grant conditional permission subject to no further representations raising new material planning issues not previously addressed.

The meeting concluded at 6.13 pm.

Signed by the Chair of the meeting
Councillor Aiden Gray