



Minutes

Name of meeting	PLANNING COMMITTEE
Date and Time	TUESDAY 21 SEPTEMBER 2021 COMMENCING AT 4.00 PM
Venue	COUNCIL CHAMBER, COUNTY HALL, NEWPORT, ISLE OF WIGHT
Present	CLLrs M Lilley (Chairman), G Brodie (Vice-Chairman), D Adams, M Beston, P Brading, V Churchman, C Critchison, R Downer, W Drew, C Jarman, M Oliver and M Price
Also Present (Non voting)	S Smart (IWALC) CLLrs J Jones-Evans, L Peacey-Wilcoxt
Officers Present	Oliver Boulter, Ben Gard and Sarah Wilkinson, Stuart Van-Cuylenburg
Apologies	CLlr P Fuller

22. Minutes

Councillor Jarman proposed amendments to the minutes, which had been circulated to the Committee prior to the start of the meeting (attached to and forming part of these minutes), which was duly seconded, the Chairman adjourned the meeting to allow all members of the Committee time to read the proposed amendment.

The Legal advisor reminded the Committee that the only part of the minutes that could be discussed was the accuracy.

The Vice-Chairman advised that he had viewed the draft minutes prior to publication and had made some minor amendments, he believed the accuracy was correct and that minutes were not a verbatim record of what had been said at the meeting.

It was noted that the published minutes were not incorrect however the proposed amendment did provide more detail.

A vote for the proposed amendment was taken the result of which was:

RESOLVED:

THAT the amendment to the minutes be accepted.

A vote was then taken on the minutes including the amendment the result of which was:

RESOLVED:

THAT the minutes including the proposed amendments of the meeting held on 24 August 2021 be confirmed as a true record.

23. Declarations of Interest

Councillor Oliver declared an interest in minute number 25 (Castle Lodge, 54 Castle Road, Newport) as he was the neighbouring local member.

24. Public Question Time - 15 Minutes Maximum

There were no public questions.

25. Report of the Strategic Manager for Planning and Infrastructure

Consideration was given to item 1 of the report of the Strategic Manager for Planning and Infrastructure Delivery.

A schedule of additional representations received after the printing of the report were submitted at the beginning of the meeting and were drawn to the attention of the Committee members when considering the application.

Prior to the commencement of the application a point of order was raised regarding the planning Committee's site visit the previous week and the advice provided to members of the Committee regarding their attendance. It was believed that the advice provided by the Monitoring Officer that as a Planning Committee member had already attended a site visit for this application as he had already attended a site visit for this site, it was believed to be contrary to the Council's Constitution. The Chairman was asked to explain why he had allowed this to happen, potentially putting the decision the Committee made at risk.

The Chairman explained that there was a tradition of the Committee undertaking site visits together, however in this particular instance the Councillor concerned had sought advice from the Monitoring Officer explaining that they had attended a previous visit to the site with the Committee in June 2021, the advice provided was that the Councillor concerned did not need to attend the site visit but could still take part in the meeting, following the site visit a briefing took place where the matter was discussed and agreed that the Strategic Manager for Planning and Infrastructure, given he had been present at the visit with the Committee the previous week would attend a separate site visit for the Councillor. The Chairman went on to advise that the Constitution would be reviewed around this and would be put forward to Full Council for consideration. The advice provided to the Chairman regarding this had been that as the Councillor concerned had been misinformed about attendance at the site visit, it would be unfair to exclude them from taking part in the meeting.

Concern was expressed by some members of the Committee that the decision had left the Planning Committee vulnerable to the process and dissatisfaction was expressed with the decision that had been made.

Application:

21/01450/RVC

Details:

Variation of condition 4 and removal of condition 6 on 21/00076/FUL to allow permanent change of use to HMO and to agree the submitted management plan for that use of the property (revised description) (readvertised application).

Castle Lodge, 54 Castle Road, Newport

Site Visit:

The site visit was carried out on Friday, 17 September 2021 and Tuesday, 21 September 2021.

Public Participants:

Matthew White – Objector

Richard Thorne – Objector

James McDermott – Applicant

Comment:

A statement was read out on behalf of Councillor Joe Lever as Local Councillor on this item.

The Committee asked for more information regarding the applicants history and how facilities they manage run, they were advised that the applicants may not be the providers of the proposed HMO use. An agreement between the Isle of Wight Council and the provider would be separate to the planning process.

Planning Officers advised that planning permission had already been granted on the site, if the Committee decided to approve the application before them a new planning permission would be issued, this would not override the previous permission. It would be the decision of the applicant which planning permission they chose to commence. Therefore the conditions set out in the first planning permission were required on the proposed new permission.

Questions were raised regarding the contract process undertaken by the Isle of Wight Council and the Committee was advised that contracts followed a separate process and it was not a material consideration, the management plan condition incorporated some elements of the contract, it was the responsibility of the applicant to ensure that the management plan was not contrary to the contract that was in place.

The legal advisor advised the Committee that the contract process was separate from the Planning process, the Committee were purely asked to look at the planning merits.

Concern was raised following the recent opening of a similar establishment in the Newport area, local residents had made numerous complaints to both

the local member and police. The Committee understood the need for this type of housing however they did not feel convinced that removing the temporary consent was right for the local residents.

A proposal to refuse the application was made and seconded and in accordance with the Council's Constitution a named vote was taken the result was as follows:

For (11)

Cllrs David Adams, Paul Brading, Geoff Brodie, Vanessa Churchman, Claire Critchison, Rodney Downer, Warren Drew, Chris Jarman, Michael Lilley, Martin Oliver, Matthew Price.

Against (0)

Abstain (1)

Cllr Michael Beston

Decision:

RESOLVED:

THAT the application be refused

Reason:

The council is not satisfied from the information submitted that the permanent consent of this use would not have an unacceptable impact on the amenity of the area and the amenities of neighbouring residents, and are therefore not satisfied that there would not be a longer-term harmful effect on the surrounding area and local community contrary to policy DM2 (Design Quality for New Development) of the Island Plan Core Strategy.

26. **Members' Question Time**

Councillor Matthew Price asked a question regarding a previous site visit which he believed he had attended approximately 70% of but following advice he was not permitted to take part in the debate or vote on the application, he asked about the validity of the advice and if he should have been allowed to take part in the debate and vote on the application as he had extensive knowledge of the site. The Chairman advised that a written response would be provided. It was also noted that a review of that part of the constitution had begun.

Councillor Geoff Brodie asked if the decision regarding site visits would impact potential Judicial Reviews, as the Vice-Chairman who chaired the meeting in question he had applied the Council's Constitution regarding site visits. The Chairman advised that he would take advice on the matter and report back.

Councillor Chris Jarman questioned what impact the decision would have on past applications as the approached needed to be applied to all applications.

Councillor Paul Brading asked if two separate dates could be put into diaries to enable all councillors to attend, he was advised that a review of the constitution would be undertaken and his point had been noted.

Councillor David Adams advised that he had taken legal advice prior to the application and felt the Committee were under constant threat of process and it needed to be done correctly, he was advised that there was additional training arranged for the following month for the planning Committee

CHAIRMAN

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Corrections:

Minutes

Councillor Jarman interrupted with a Point of Order(1) "The committee will be aware that the IWCouncil had received representations and solicitors letters giving notice of impending legal action, including Judicial Review, involving the minutes and matters of the last meeting of this Committee. The existence of at least one of those letters has been confirmed in emails to external parties by the IWCouncil's legal staff. A copy of the said letter has been shared and widely reported in the media, following multiple commentaries from, at the last count 35 comments and actually hundreds of votes from IW residents. The matter has also attracted very public commentary from members of this committee, including challenging, perhaps defamatory remarks about other committee members, and attributed quotations from committee members have appeared on OnTheWight and County Press. It is clear that legal process is underway, that being an item under PoO, and any effective Finding of Fact by discussing or voting on the minutes would be, I believe, reckless and potentially undermine the work of this Committee, its members and the IWCouncil. At the very least, it would likely protract the legal process, generate unnecessary and distracting discourse and incur costs. Given the matter is now sub justice and legal representations have been made, it would clearly be inappropriate and potentially dangerous to go behind that legal process and I therefore propose BY MOTION that we defer consideration of the minutes and matters therein until the conclusion of those judicial proceedings."

The Chairman took advice and then asked if there was a seconder to the Motion. The Motion was duly seconded by Cllr Drew. The legal officer attempted to start to give his advice.

Cllr Brodie interrupted consideration of Cllr Jarman's PoO(1) by raising a second Point of Order(2) "It's sad that we're going to have to go down this road but I do not believe that under a PoO a Motion can be made regarding a different item on the agenda. I would seek Mr Gard's view on that. This is not a PoO, this is an attempt to move a Motion regarding item 1 on the agenda this afternoon and therefore I would ask that this is ruled Out of Order. Thank You."

<add in the original para 2 from the draft minutes>

Cllr Brodie interrupted with another Point of Order(3) "You (Chairman) have indicated indicated in writing today, previous to today, to me and to the MO that you will take no part in consideration of the minutes of the previous planning committee, that you would excuse yourself from the meeting, therefore I challenge your right to be able to make any decision regarding PoO(1) from Cllr Jarman at this meeting and therefore request that you leave the room and allow me to take over as the vice chairman of the planning committee. Thank You."

<add in existing para 4>

Cllr Drew interrupted with Point of Order(4) "In relation to the PoO(1) that Cllr Jarman raised and Ben replied to, I think to my mind this isn't an issue about whether there is a JP, whether there are legal proceedings. It's a question about the appearance of this committee and our responsibility under the Planning Committee constitution to ensure that bias not only doesn't take place per say but isn't an appearance of bias and I think

we have seen in the course of three publications of different minutes, of questions where the Chief Executive, where the legal officer, where the MO, have been taking legal advice, that there is certainly a question that is being raised in relation to what happened - in those minutes and the issue of acquiescence and assent. I think on that basis it should be determined, and I would appreciate Mr Gard is looking at it potentially from a perspective of a JR, but I think it's the wider issue, it's a much broader question. Are we as a committee in our duty to the public and the way that is perceived given everything that has happened - I mean today I've seen a slew of emails going back and forth - I don't necessarily know whether I agree with some of the points made, but the issue which is substantive is - is there a question about this, in terms of maybe a determination from the legal officer, from the Chief Executive, from however the Vice Chair is whether it's Cllr Brodie or others, and for that reason I think we should perhaps pause, perhaps maybe Mr Gard would look at it from that wider view?".

The legal officer paused to consider.

<add in existing para 5>

Cllr Adams noted that he could see nothing in the Constitution as to why Cllr Lilley could not continue to chair the meeting and asked to be shown proof that Cllr Lilley should be excluded. He further noted that "we have two different versions of the Constitution flying about".

<add in existing paragraphs 6 and 7>

Cllr Adams noted that the departure of Cllr Lilley was an example of the problems of the last Planning Committee meeting and that Cllr Lilley had done the right thing in every circumstance. He further noted that the committee was about to put into the chair the person that had caused all the friction and that he would be given the casting vote. Cllr Adams noted his very serious concerns.

Cllr Brodie as Vice Chairman took the Chair. He asked for Cllr Adams to withdraw remarks that he had made regarding the conduct of the last meeting and asked Cllr Adams to leave the meeting. Cllr Adams refused stating that he was entitled to remain. The Vice Chairman stated he was adjourning the meeting until Cllr Adam left.

The Vice Chairman reconvened the meeting and noted he found Cllr Adams remarks to be untrue, false and insulting - "just because he didn't get his own way, like a child". Cllr Adams attempted to speak but was told by the Vice Chairman "will you shut up".

<add in para 9>

The Vice Chairman turned to the PoO(1) and Motion by Cllr Jarman.

<add in para 10 and 14>

Cllr Jarman clarified the point of law embodied within his PoO(1) and reiterated his concerns regarding dismissing the impending legal action. He also noted that a PoO but be dealt with by the Chair first and before the committee moves on. He sought clarification from the Chair if he would now put the Motion (from PoO(1)), duly

seconded, to the vote. The Vice Chairman stated he believed Cllr Jarman exaggerated the position of 22nd July and he rejected the proposal to put the duly seconded Motion to the vote..

Cllr Jarman replied that he considered the meeting to be Out of Order and the matter to be subject to legal review and process. He declared the meeting Out of Order and declined to continue. Cllr Adams likewise declined to continue. Both Cllr Jarman and Cllr Adams left the meeting.

<continue with para 19 etc..
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**UPDATE FOLLOWING THE PUBLICATION OF A REPORT TO THE PLANNING COMMITTEE
– TUESDAY 21 SEPTEMBER 2021**

1. **21/01450/RVC** **Variation of condition 4 and removal of condition 6 on 21/00076/FUL to allow permanent change of use to HMO and to agree the submitted management plan for that use of the property (revised description) (readadvertised application)**

Nature of Representation

Since publication of the report an additional 6 comments have been received from local residents who object and have raised the following concerns:

- Unsuitable building location and size
- Not in keeping with character of the area
- Existing social problems, including with drug dealing and drinking, would not be helpful to the care and rehabilitation of future residents of the HMO, and may be exacerbated by proposed use
- Safety of existing residents
- Increased noise and disruption, particularly late at night
- No evidence applicant has other successfully run properties in similar residential locations
- Management plan would not be set in stone and additional staff support may be withdrawn at a later date
- Condition limiting use to three years should remain to provide protection for existing residents
- Applicant's lack of communication/engagement with local community
- Loss of guest house and conflict with SP4
- Funding not a material consideration
- Affect on house prices locally
- Would set a precedent

Officer conclusion

The above concerns repeat those already expressed by residents and the Local Councillor as summarised and considered in the published report. As explained within the report, the HMO use of this property has the benefit of planning permission granted in June this year (Ref: 21/00076/FUL), with this application being solely concerned with the conditions of that permission. Affect on local houses prices is not a material planning consideration and should not be considered in the planning decision-making process. In terms of precedent, this application must be determined on its own merits, as would any future planning application on the Island for a similar proposal.

No change to officer recommendation.

Nature of Representation

The applicant has advised officers that whilst they are committed to working to an agreed management plan, and to varying that plan with relevant parties, the current wording of condition 5 as set out in the published report would result in a number of barriers to purchasing the property and to ensuring they could obtain grant to subsidise and achieve social rents due to the risk of the change of use ceasing. Therefore, they have requested condition 5 is changed to read as follows (please note the requested changes are shown as tracked changes):

5. The property shall only be operated in accordance with the submitted Management Plan (as revised), with the exception that the CCTV system, door entry system and access controls shall be implemented and maintained in accordance with the details approved in accordance with condition 4. Should the Management Plan need to be revised, this will be carried out in agreement between the party responsible for managing the property and the IOW Council.

Reason: To protect the amenities of the area, those of neighbouring residents, as well as those of future occupiers of the accommodation in accordance with the aims of policy DM2 (Design Quality for New Development) of the Island Plan Core Strategy and the National Planning Policy Framework.

The applicant confirms that they understand that councillors and residents want assurances over the management of the property and that reassurance is already provided through:

- Being a 'Registered Provider' of Social Housing, regulated by Government.
- Being 'contract managed' as a commissioned service provider by the Council.
- Applicant's own commitment to high quality, safe and secure service provision.
- Being signed up to the Island's referral panel chaired by the Council.
- Not wanting to do anything to negatively impact their reputation, as a local and regional provider and a member of national advisory bodies on homelessness issues.

The submitted management plan outlines how the property would be managed, how the applicant would engage with residents and councillors, and confirms how concerns could be raised once the use has begun.

The applicant has advised that as worded, condition 5, particularly the requirement for the use to cease should the management plan not be adhered to, would prevent them from being able to deliver the accommodation here.

Officer conclusion

The applicant has not provided evidence that the wording of condition 5 would prevent funding of the project, and it is not unusual for HMO uses to be subject to a condition to require the implementation of an agreed management plan. The funding and use would

only be at risk should the plan not be adhered to. As they have submitted the management plan for the agreement of the Local Planning Authority, there is no reason to presume the plan would not be comply with. Furthermore, a decision notice is a legal document and therefore the only way to change this is by way of an application, it is therefore inappropriate for a condition to allow for the requirements of the condition to be varied in a manner which would not require an application.

Whilst officers acknowledge that the management plan may need to be modified in the future (i.e. to reflect a change in service/accommodation provider), this should be done by a formal request and controlled through a further application to vary the planning condition as and when required.

It is appreciated that the wording of condition 5 does introduce a risk of the use having to cease, but only if it is established that the use was not being operated in accordance with the agreed management plan. If the plan is adhered to, then the use would be able to continue to operate.

Officers consider that condition 5 should be imposed as recommended to ensure the use would be appropriately managed and that the LPA would retain control over any proposed modifications to the management plan in the future.

No change to officer recommendation.

Ollie Boulter – Strategic Manager for Planning and Infrastructure Delivery
Sarah Wilkinson – Planning Team Leader
Stuart Van-Cuylenburg – Principal Planning Officer

Date: 21 September 2021

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