

Portsmouth Local Plan (PLP20) Examination

Matter 8 – Housing Policies – Houses in Multiple Occupation (HMOs) - whether PLP20 is positively prepared, justified, effective and consistent with national policy. Questions addressed: Matter 8, Questions 9 and 10.

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1. Introduction

My reasons for submitting my initial statement on the Portsmouth Local Plan (hereafter refer to as PLP20) was to highlight significant frailties and disfunction in the application of current policies towards the applications for Homes of Multiple Occupancy (hereafter referred to as HMOs) in the City of Portsmouth as a whole, but most specifically with in the geographic confines of Portsea Island.

There is a significant disconnect between the Policies and processes, and the realities of the situation ‘on the ground’, with seriously outdated and therefore irrelevant supplementary documentation being used, and a failure to embrace considerations that present serious risk to existing area of the city. Along with the ongoing issues with the resilience of the oft queried and fragmented records of HMOs within the city and its partner records on licencing of these properties.

2. The Registers

Portsmouth City Council (hereafter known as PCC) operates an HMO register that it claims as ‘current’ and ‘flawless’ however all recent evidence seems to point towards a selection of different registers held variously by Planning and Licencing Departments respectively. It has not been proven that any register is the definitive version despite various efforts over an extended period to see this information clearly defined and available to residents of the city as required by the Housing Act 2024 (Section 232). PCCs frailty in this regard is that the HMO Register is not up to date, and furthermore, that the Licencing list does not show the same information with properties on the Licencing list not showing on the HMO list and vice versa. Surely the benefit of a resilient Local Plan is its transparency and clarity to the people it serves and without this casts doubt on the ability of the Authority to adhere to the Policy with any confidence.

3. Housing Mixture and Density

Portsmouth is the only island city in the United Kingdom, which presents significant limitations when it comes to a suitable mixture of residential properties. Portsmouth is also the most densely populated city in the United Kingdom outside of London, but without London’s ability to expand. This presents a problem when looking at options to expand property numbers in areas of substantial amounts of turn of the century terrace houses, and similar post-war reconstruction properties on the Victorian road plan and an aging sewer system that has already suffered multiple catastrophic failures within the

city, and numerous other sewage spills into residential houses and roads that coincide with locations of existing HMOs and in-progress HMO developments. Nothing in the PLP20 addresses this issue, and intransigence significantly increases the risk of not only serious property damage but also presents serious health risks through exposure to pathogenic bacteria, viruses, parasites, and toxic gas. There has been no publicly released dilapidation reports from either Southern Water or Portsmouth Water, nor has there been any verifiable comment as to the impact of the enormous demand on the system the ever-growing density is having. In the case of Portsmouth this simply cannot be absent from the Local Plan.

The PLP20 also refers to the Parking Standards and Transport Assessments Supplementary Planning Document - July 2014 (that bizarrely the Councils Website describes as “new”).

This document sets out the parking requirements for any new residential development as follows:

Figure 4: Dwelling sizes and average number of vehicles available		
Number of habitable rooms	Assumed number of bedrooms	Average number of vehicles
1-3 rooms	Studio / 1 bedroom	1.17
4 rooms	2 bedrooms	1.23
5 rooms	3 bedrooms	1.36
6+ rooms	4+ bedrooms	1.58
Source: Census 2011		

The first observation is the date of the document (2014) which with the data used coming from the 2011 Census is an area that must be addressed with regards to the realism and robustness of this measure. According to Office of National Statistics data, between 2011 and 2021 the population of Portsmouth grew by about 1.5% from 205,100 to 208,100. PCCs own data estimates that since the 2011 Census the population of the city had grown to 214,300 by 2024, a total growth of circa 9,200 residents in the 13-year period. PCCs data also projects that the population of the city will grow by 30% by the year 2047, an increase of 64,290 residents. Recent Government figures from the National Travel Survey state that 75% of UK households have access to at least one car or van. According to PCC data, in Portsmouth that figure drops to 69.7%. therefore, since the Supplementary Planning Document - July 2014 was published, there has been a potential increase of 6412 cars within the city. Taking into consideration that 75% of the population of the city live on Portsea Island then the overriding logic must be that the Parking Standards and Transport Assessments Supplementary Planning Document - July 2014 is not fit for purpose to determine parking expectations. It should be noted that this information does not consider the increase in sizes of vehicles, especially electric cars, neither does it

consider the net loss of parking space lost to Electrical Vehicle Parking bays. It should also be noted that there is a sizable amount of work vehicles within the city owing to changing business practices that have led to many companies no longer providing fleet parking on their property and therefore requiring employees to make their own on-street arrangements.

4. The 10%/50m calculation

The currently applied 50m rule is problematic due to the variance of what constitutes the centre of a property. The current method is not uniformly applied and, by virtue of a minor tweak in centring, can be used to include or exclude properties that potentially change the calculation of the 10% within the 50m radius and therefore achieve certain goals.

The current 10% radius has also developed into an arbitrary measure. Most notably, the current abuse of the loopholes in the Certificate of Lawful Development (CLD) to add additional rooms to existing HMOs increasing the size of HMOs via the backdoor with little to no checks and balances. Developers openly boast on social media about how they have mastered the CLD loopholes with Council being toothless to act. The PLP and forthcoming FPP give us the opportune moment to address this issue. Without addressing the issue, it is functionally impossible to gauge the true scenario when it comes to HMOs. A change to 5% per 50m would enable a much fairer and more sustainable housing mix, with the bonus of enabling PCC to have a greater control regarding density. This is an approach that has been demonstrated as workable and successful in West Lancashire, Cliftonville, and Margate, all of which have demonstrated the strength of this approach in protecting family housing stock. With the unique challenges of Portsmouth being an island city with no realistic further land expansion options possible (as demonstrated in the Tipner West section of the PLP20), we are in a position to take bold action to prevent the over saturation of areas by new HMOs, and the CLD issues that compound an already tinderbox-like scenario.

5. The Windfall Site Issue

Because these sites appear at random, local councils cannot accurately forecast when or how many homes will be built, leading to sporadic delivery rates rather than a steady, managed pipeline.

Unplanned developments can overwhelm local services—like schools, roads, doctor surgeries, and water drainage systems—that were not sized or funded to support new residents in those specific areas and piecemeal or sudden building in established neighbourhoods can alter local character, increase traffic congestion, and spark opposition from nearby residents who expected stable zoning.

Relying on or fighting for windfall approvals creates friction between developers, local planning authorities, and communities, often resulting in speculative planning applications that conflict with broader regional growth strategies.

Because rules (such as the UK's National Planning Policy Framework) require strict, compelling evidence before counting windfall sites toward a 5-year housing land supply, it creates an issue where local authorities struggle to prove they meet official targets without allocating more sensitive greenfield or open countryside land instead.

6. The Government Circular 2010

The Government Circular 2010 entitled "Changes to Planning Regulations for Dwellinghouses and Houses In Multiple Occupation" states within Annex A, paragraph 17:

" Although the control limit of six persons defines the scope of the C3 (b) and (c) dwellinghouses and C4 houses in multiple occupation classes, this does not imply that any excess of that number must constitute a breach of planning control. A material change of use will occur only where the total number of residents has increased to the point where it can be said that the use has intensified so as to become of a different character or the residents in relation to C3 no longer constitute a single household."

Within the "Pre-Submission Portsmouth Local Plan July 2024; Strategic Policy PLP20: Houses in Multiple Occupation - Paragraph 2, it states: "In areas where concentrations of HMOs exceed the 10% threshold, development proposals that intensify the use of an existing HMO, namely change the use of a Class C4 or mixed C3/C4 use to an HMO in Sui Generis use or increase the occupation of an existing HMO, will only be permitted in exceptional circumstances."

In a recent example of the issue, an application for a property in the south of the city, the HMO density map was not submitted by Planning. The assumption being that it was because it was an application for a CLD, but the area of the application appeared to be saturated with HMOs and the agent would have been aware of this fact. According to the HMO Database the property is licensed for a maximum of 4 occupants) for a period of 5 years from September 2024. This new application for an occupancy of 7 therefore demonstrated an increase of 75% - effectively another C4 within a C4. I have no doubt the agent referred to the fallback position of a C4 hypothetically allowing occupancy of up to 6 people, but this does not reflect the current reality of a maximum of 4 people according to the licence held now. If more than 4 people are living there at the moment then a breach of that licence is occurring.

The Government Circular 2010 would have circumnavigated the need for planning permission for the new application, and the CLD for proposed use would have swerved the 10% rule if it wasn't for the PLP20 - which now carries increasing weight. At this point it is worth notice that:

The Government Circular 2010 was WITHDRAWN on 7th March 2014, see - <https://www.gov.uk/government/publications/changes-to-planning-regulations-for-dwellinghouses-and-houses-in-multiple-occupation-circular-08-2010>. So, why is the Government Circular 2010 still being cited by the agent here, 12 years after its withdrawal? Why is it also still being accepted, as law, by PCC Planning Dept and PINS?

The Circular was replaced in 2014 with "Planning Practice Guidance" <https://www.gov.uk/government/collections/planning-practice-guidance>. This contains a section entitled, "When is permission required?" <https://www.gov.uk/guidance/when-is-permission-required>, which states in Paragraph 001:

"What is development?

Planning permission is only needed if the work being carried out meets the statutory definition of 'development' which is set out in section 55 of the Town and Country Planning Act 1990.

'Development' includes:

material changes of use and buildings".

As far as I am aware, a change of Class is generally considered a material change of use, and the application form itself states it is an "Application for Certificate of Lawful Development for the proposed change of use from a six bedroom House in Multiple Occupation to a seven bedroom House in Multiple Occupation."

Within "When is Permission Required", Paragraph 011 entitled "When does a change of use require planning permission?" states, " A change of use of land or buildings requires planning permission if it constitutes a material change of use. There is no statutory definition of 'material change of use'; however, it is linked to the significance of a change and the resulting impact on the use of land and buildings. Whether a material change of use has taken place is a matter of fact and degree and this will be determined on the individual merits of a case." This suggests that LPAs are afforded discretion.

In the absence of the withdrawn Government Circular 2010, and in support of a refusal (and potential appeal to PINS), it may be said that in addition to a change of Class being considered a 'material change of use' it is no longer reasonable to look at each HMO application in isolation and simply say just one or two extra tenants will make no difference - significant cumulative effects need to be examined here. When an application for an increase in occupancy in an existing HMO is granted it not only adversely affects the immediate community but the rest of the city too, simply because Portsmouth is such a small, highly densely populated island city whose services and infrastructure are already beyond breaking point. It should also be noted here that owners of HMOs do not pay the Community Infrastructure Levy (CIL), and HMOs populated entirely by students are fully exempt from Council Tax charges. The resulting negative, cumulative effects on residents' lives and wellbeing, not to mention services and infrastructure, must now be properly, and independently, analysed and addressed.

This situation makes it clear that there is a disconnect between adherence and application of policy, and that there is a clear and present deficiency either in process or personnel that should be addressed as part of the examination of the PLP20 and furthermore the approaching Future Portsmouth Plan to remove the potential of this opaqueness from reoccurring.