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Subject: HMO's / This Weeks Planning Committee

To: Members of the Planning Committee
Copy: Deputies, council officers

Councillors,

As members or deputies of the newly formed Planning Committee, I know some of you are new to the role and others have participated before – but I want to reach out on behalf of my members and offer some thoughts which hopefully will help you all to function more effectively as a committee.

We have watched councillors scratch their heads and struggle with applications for new or extended HMOs for many years – hopefully, we can help explain why you sometimes struggle and offer some potential solutions to ease your task going forward.

Do We Need HMO's?

The city has a massive shortage of 1 and 2 bed properties to rent. Especially at the lower end of the affordability scale. Yet we have around 20,000 residents living in HMO's today and probably only half of those are students. If the Local Plan was up to date, it clearly identified the different habitation needs within the local population and defined how and where each would be accommodated, what needed to be built, etc. then you might have an alternative, but in the absence of a comprehensive current Local Plan, there is nowhere for these people to live except in HMO's.

Normally, properties would become HMO's as demand rose and revert to family use as it fell, but with the Article 4 Direction in place, it is almost impossible to meet demand for low cost accommodation by creating HMO's, so developers buy existing small HMO's and use permitted development rights to enlarge them.

I am sure this was not the intended outcome when the Article 4 Direction was introduced but it is the only way current demand can be met – the upside is that fewer bigger HMO's mean more remaining properties are available for families, but in an ideal world the premium price of 'approved' HMOs would not be driving behaviours such as this.

What Is The HMO Problem?

Your constituents do not like HMO's – I am sure you know this.

Every application that comes before the committee is objected to by local residents. Some of their fears are well founded, but the vast majority are irrational – more cars / more parking problems, rubbish, noise, disturbance – all are cited. These fears are oft fueled by yourselves. In previous planning meetings I have heard a councilor talk of 12 people sharing 1 toilet (this was a house for 7 which would need 3 toilets to meet PCC licensing standards) and another rejecting an application because the washing machine (which to facilitate plumbing could end up at the other end of the kitchen and had only been shown on the indicative drawings as an example at the Planning Officers request) might wake tenants in an adjacent room. We have also seen an application for 5 rejected as it showed double beds and thus could sleep 10 – this is obviously ridiculous because if it had been approved for 5, it would have been in breach of that approval if it was let to more.

Whilst we appreciate that councilors are trying to find reasons to reject applications and thus to please constituents, and these statements are made with the best intentions, the net result is the fire of resentment of HMO's is fueled and the fears of residents are increased – which also increases your workload.

We ask each of you to be realistic – if a property meets the rules which you, as a council, have defined – don't look for interpretations of the SPD or Article 4 which allow you to reject the application. It only comes back approved on appeal and makes those who objected feel even less represented than a realistic appraisal of an application and a clear explanation to objectors that the rules have been met. Please trust the view of more expert housing standards officers who have pre vetted the application.

What Should Be Done?

In our experience, there are some bad HMO's in the city and some poorly managed HMO's – however, specifying ever more communal space is not going to fix those problems. Typically, developers follow the rules and if Portsmouth has the highest HMO property standards in the country (most communal space required anywhere in the country for example), that just results in developments which you cannot legitimately object to but which also, cost far more than those most in need can afford. And the knock-on effect is that rents and property values are pushed up across the city, regardless of tenure or dwelling type, which itself then increases the need for more HMO's as fewer people can afford anything else

As a council, we recommend you focus on 3 areas:

1. Tighten controls on letting agents in the city - the majority of landlords have 1 or 2 properties let and managed for them by a letting agent. Some agents are very professional. Others minimise cost to the landlord and act as a buffer so as not to worry the owner with tenant issues, they use substandard trades for repairs and don't always abide with the necessary client money protection / deposit protection legislation. If an agent manages HMO's, their management practices need to be of the highest order – whether you use Trading Standards or Private Sector Housing to police these agents, a little investment in defining the management expected of HMO's and policing this community would have tangible and immediate benefits.
2. Introduce a focus on 'Rent to Rent' operators. There is a grey area between agents and landlords known as 'Rent to Rent' whereby a tenant agrees to rent a whole property from a landlord and then to rent out the rooms individually. When done properly, this can be a very successful business model for all concerned. However, we see many inexperienced 'wannabe landlords' who have been on 'Get Rich Quick With Property' courses thinking they can create an HMO and make a fortune from Rent 2 Rent and typically, this ends badly. We have been helping 2 local landlords in the past couple of weeks who unknowingly found themselves in Rent2Rent situations where it has all gone wrong and they are facing major losses whilst tenants are facing homelessness. A 'Rent2Rent' operator is effectively an agent and Portsmouth needs to take action to ensure rules are clear and Trading Standards (or Private Sector Housing) enforce those rules effectively.
3. Inspect properties let to the most vulnerable – This one is not rocket science. Those most in need are least likely to complain and unscrupulous landlords take advantage of that. Low quality accommodation badly maintained (partly due to the very low rents obtained) is often the only option those on benefits can afford. If, as proposed in last week's Queens Speech, the council inspected all properties rented to tenants in receipt of benefits, in our view you would resolve 98% of the issues experienced by PRS tenants in the city.

But What About The Planning Committee?

There is a role for planning within the overall management of HMO's in the city – but it is a limited one. You already have the highest standards specified anywhere in the country and if a property complies with that – you are duty bound to approve the application.

Our recommendations:

1. Don't get hung up on the fact that you have 12 applications to review this week. It is not evidence of a torrent of applications – all 12 have been kicking around since 2020/2021. It is simply evidence of the Planning teams inability to keep up, given the committees desire to reject as many applications as possible.
2. Also, learn to work more closely with Private Sector Housing. They approved a licence for 7 people at 118 Prince Albert Rd on 1st April 2020. 9 months later, planning permission was refused for change of use from 6 person HMO to 7 person HMO – so one or other department obviously made a mistake. And the Planning Inspector has ruled against in a number of cases that making an HMO marginally larger is not a “material” change of use, so does not need planning permission, so everyone could save a lot of time and effort by accepting that view at least in some situations
3. Get the HMO database up to date. Our view is that the city had 3,000 HMO's in 2018 but that has now dropped to 2,500 and will drop further if Additional Licensing is introduced. For the council to be stating that there are 6,000 is ridiculous and misleading. We do know there are many C3/C4 properties on the database in C3 usage. There are also many one and two bed flats identified as HMOs but it is highly unlikely that they are. Much could be resolved by using Council Tax records to verify whether usage is C3 or C4. The stock answer from officers is that this is a breach of GDPR, but our legal advisors assure us there is no issue of that form here.
4. Ask Private Sector Housing to confirm that necessary planning permissions have been obtained before granting a licence. Illogically at present, properties can be licensed HMO's but not have the necessary planning permissions.
5. Get the Local Plan completed – Unless and until alternative accommodation is identified, you have to accept that at least 1 in 10 of the population need to live in shared accommodation and as a result, your role is to ensure that there is enough and it is of a suitable standard.

My apologies if some of this is not what you want to hear – but your role on the Planning Committee is a tough one. You have to balance the needs of the many against the concerns of the few, while taking a sensible view and applying all of the many (oft badly drafted) rules. I do hope some of these suggestions help you going forward in helping to build a better city for everyone who lives here.

The PDPLA is not your enemy – we comprise around 400 members of the local community who have invested in the city and we provide homes for people who live here and use local services to maintain them. As always, we are keen to work with any and all groups and agencies to improve the operation of the local PRS and we will continue to do so.

Thanks for reading this far, if collectively, we can all help the new Planning Committee be more effective everyone will be happier.

Thanks & Regards,
Martin Silman
Chairman



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