



NOTICE OF MEETING

PLANNING COMMITTEE

WEDNESDAY, 22 JUNE 2016 AT 1.00 PM

THE EXECUTIVE MEETING ROOM - THIRD FLOOR, THE GUILDHALL

Telephone enquiries to Jane Di Dino 023 9283 4060

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Planning Committee Members:

Councillors Frank Jonas (Chair), Scott Harris (Vice-Chair), Jennie Brent, Yahiya Chowdhury, Ken Ellcome, Colin Galloway, Lee Hunt, Hugh Mason, Steve Pitt and Gerald Vernon-Jackson

Standing Deputies

Councillors Steve Hastings, Suzy Horton, Stephen Morgan, Gemma New, Darren Sanders, Lynne Stagg, David Tompkins, Tom Wood and Rob Wood

(NB This Agenda should be retained for future reference with the minutes of this meeting.)

Please note that the agenda, minutes and non-exempt reports are available to view online on the Portsmouth City Council website: www.portsmouth.gov.uk

Representations by members of the public may be made on any item where a decision is going to be taken. The request needs to be made in writing to the relevant officer by 12 noon of the working day before the meeting, and must include the purpose of the representation (eg. for or against the recommendations). Email requests to planning.reps@portsmouthcc.gov.uk or telephone a member of the Technical Validation Team on 023 9283 4826

AGENDA

- 1 **Apologies**
- 2 **Declaration of Members' Interests**
- 3 **Minutes of the Previous Planning Committee Meeting - 25 May 2016.**
(Pages 1 - 10)

The minutes of the previous Planning Committee held on 25 May 2016 are attached.

- 4 **Updates on Previous Applications by the Assistant Director of Culture & City Development.**
- 5 **15/02010/PAMOD - Request to modify legal agreement attached to planning permission 12/01382/FUL relating to land at 249 Fratton Road.**
(Pages 11 - 14)

The report by the Assistant Director of Culture & City Development requests that members consider the applicant's request to modify the legal agreement attached to planning application 12/01382/FUL in relation to affordable housing provision.

RECOMMENDATION: to approve modification of the legal agreement to remove the requirement to provide three units of affordable housing.

Planning Applications.

- 6 **16/00497/PLAREG - The Parade Tearooms Western Parade Southsea PO5 3JF - retrospective application for change of use of part of building from cafe (class A3) to include external alterations and single storey extensions after removal of existing canopy (amended scheme 15/00380/FUL) (Pages 15 - 66)**
- 7 **16/00223/TPO - Land Surrounding Woodlands Walk St James Hospital Southsea PO4 8GB - within tree preservation order 177 fell Elm (Ulmus) (T188); fell Portuguese Laurel (Prunus Lusitanica) (T190) removal of epicormic growth under 4m to Lime (Tilia X Europaea) (T148A): crown lift branches to 7m to property side of Norway Maple (Acer Platanoides) (T114); fell two Silver Birches (Betula Pendula) (T1 & T2); removal of basal epicormic growth on Silver Birches (Betula Pendula).**
- 8 **16/00613/TPO - Land Adjacent to Langstone Campus Playing Field West of Furze Land Southsea - within tree preservation order 215: fell of Lombardy Poplar (Populus Nigra Italica) (T11); crown and height reduction to leave height of 15m of Lombardy Poplar (Populus Nigra Italica) (T20)**
- 9 **16/00576/FUL - 43 Rivers Street, Southsea PO5 4PL - change of use from dwelling house (class C3) to purposes falling within class C4 (house in multiple occupation) or class C3 (dwelling house).**
- 10 **16/00674/FUL - 2 Foster Road, Portsmouth PO1 4HS - change of use from dwelling house (class C3) to purposes falling within class C4 (house in multiple occupation) or class C3 (dwelling house).**
- 11 **16/00775/FUL - 289 Milton Road, Portsmouth PO4 8PG - change of use from residential dwelling (class C3) to purposes falling within class C4 (house in multiple occupation) or class C3 (dwelling house).**

- 12 **16/00650/HOU - 40 St Ronans Road, Southsea PO4 0PT - construction of part 2/ part single storey side extension and single storey rear extension.**
- 13 **16/00575/FUL - 16 Victoria Road South, Southsea PO5 2BZ - construction of first floor rear extension and modifications to existing ground floor extension, new french windows and "Juliet" balconies to first and second floor front and rear elevations and photo-voltaic panels on main flat roof**

Members of the public are now permitted to use both audio visual recording devices and social media during this meeting, on the understanding that it neither disrupts the meeting or records those stating explicitly that they do not wish to be recorded. Guidance on the use of devices at meetings open to the public is available on the Council's website and posters on the wall of the meeting's venue.

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Agenda Item 3

PLANNING COMMITTEE

MINUTES OF THE MEETING of the Planning Committee held on Wednesday, 25 May 2016 at 1.00 pm in the 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 Frank Jonas (Chair)
Scott Harris (Vice-Chair)
Jennie Brent
Ken Ellcome
Colin Galloway
Hugh Mason
Lee Hunt
Yahiya Chowdhury
Lynne Stagg (Standing Deputy)
Suzy Horton (Standing Deputy, part meeting)
Steve Hastings (Standing Deputy, part meeting)

Welcome

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

Guildhall, Fire Procedure

The new chair, Councillor Jonas, 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.

47. Apologies (AI 1)

Apologies for absence had been received from Councillor Gerald Vernon-Jackson (who was represented by standing deputy Cllr Lynne Stagg) and Councillor Steve Pitt (who was represented by Councillor Suzy Horton for part of the meeting). Councillor Hastings appeared as a standing deputy for Cllr Scott Harris for one item (149-149a Albert Road).

48. Declaration of Members' Interests (AI 2)

Councillor Hugh Mason explained that for the item relating to 149-149a Albert Road whilst he had made a previous objection in 2014 and to this application, this was pre-deposition and not pre-determination, and he would listen to all the information and remain impartial before making his decision. Councillor Hunt also wished to state that he had previously objected but he had received legal advice and he was also going to listen and be open-minded before reaching a decision.

Councillor Scott Harris apologised for his late arrival and reported that he had received legal advice and as he owned a property close to 149-149a Albert Road he was deemed as having a pecuniary interest so he would not take part in discussion of this item.

Robert Parkin, the legal adviser to the committee, further explained the matter of pre-deposition versus pre-determination, as referred to within the Planning Code of Conduct paragraph 7.2. Thereby members of the committee could express views provided they were open-minded in reaching their decision which would be taken on the merits of the evidence presented.

49. Minutes of Previous Planning Committee Meeting - 27 April 2016 (AI 3)

RESOLVED that the minutes of the Planning Committee held on 27 April 2016 be agreed as a correct record and be signed by the Chair.

50. Updates on previous applications by the Assistant Director of Culture & City Development (AI 4)

There were no updates by the Assistant Director of Culture & City Development.

51. 15/02010/PAMOD - Request to modify legal agreement attached to planning permission 12/01382/FUL relating to land at 249 Fratton Road (AI 5)

The Assistant Director of Culture & City Development reported that this report had been withdrawn from consideration.

52. 16/00422/FUL - First Floor 149-149A Albert Road Southsea PO4 0JW - Change of use of first floor from class D2 premises (former Conservative Club) to a lap dancing venue (sui-generis) (amended scheme to 14/00854/FUL) (Report item 1) (AI 6)

Councillor Harris withdrew from the committee for this item in line with his earlier declaration of interest and was represented by standing deputy Cllr Hastings. Councillor Horton was not a member of the committee for consideration of this item to enable her to make a deputation, but took no part in the decision.

The following information was contained in the Supplementary Matters report which was brought to the attention of members:

20 further representations have been received raising similar objections to those reported and considered in the published report.

The online petition referred to in the report has been submitted with 763 signatures (and increase on the 141 reported at the time the report was written). The petition states that:

"There is a planning application, once again, to open a lap-dancing club at the old Conservative Club building on Albert Road. Albert Road is a shining gem in Portsmouth's crown, independent shops with something for the whole family. Opening a new sexual entertainment venue here is not wanted, not needed, and works against the vibrant community that has established itself here.

The council's existing licensing policy states that new applications for more lapdancing clubs in the city will be refused unless there is evidence to show how one would benefit the community. If this venue can't be licensed, it shouldn't get planning permission."

The following provides an update on the position regarding issues referred to in objections and relates to the duty of the Planning Committee under The Equalities Act 2010 and Crime and Disorder Act 1998.

The Equalities Act 2010

Public bodies must meet the Public Sector Equality Duty (PSED) when carrying out any functions, at all times. In some instances, the PSED is more apparently engaged than others. It is a procedural obligation - it does not constrain a decision-maker to an outcome. Rather, it requires those involved in the decision to have regard to various matters around what are described as protected characteristics. Protected characteristics include: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

The Public Sector Equality Duty requires the Planning Committee to have "due regard" to: the need to eliminate discrimination, harassment, victimisation; remove or minimise disadvantages suffered by persons who share a relevant protected characteristic; take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.

Importantly, a court will decide for itself if due regard has been had, but providing this is done it is for the decision maker to decide what weight to give to the equality implications of the decision (R (Hurley & Moore) v Secretary of State for Business, Innovation and Skills [2012] EWHC 201 (Admin). Section 149(6) makes it clear that compliance with the PSED in section 149(1) may involve treating some people more favourably than others - there is no outright duty to neutralise inequality.

Crime and Disorder Act 1998

Section 17 of the Crime and Disorder Act 1998, provides that due regard must be given to the effect of the exercise of the planning function on crime and disorder as set out below:

17.— Duty to consider crime and disorder implications.

(1) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent

(a) crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment

In this case it should be noted that Hampshire Constabulary have chosen to make no comments relating crime prevention. It should also be noted case law makes it clear that in the absence of any evidence of disorder or crime, little weight should be afforded to a fear of crime or disorder.

Robert Parkin, as the committee's legal adviser, gave an extra explanation of the Equality Act with regard to the public sector equality duty in the process of decision making and the need to have due regard to the impact on the protected characteristic groups (as listed above).

The following deputations were made:-

- (i) Ms Mooney, as a local resident to object to the application, whose points included:
- Fear of an adverse effect for women's safety (especially shift workers returning home late) and wellbeing locally and an unreasonable attitude to women being promoted
 - General noise and nuisance caused by clients and the noise of cars and taxis
- (ii) Mrs Catlow spoke as a local resident and businesswoman to object, whose points included:
- This would devalue the architectural value of the property
 - This would have a negative impact on Albert Road businesses which promoted a boutique shopping experience and currently had high retail occupancy of independent traders and had received grants for regeneration.
 - The sexual entertainment establishment would destroy the cultural quality of the road near a theatre, the Wedgewood Rooms and near schools and churches
 - Many of the supporters signing the petition were from outside of the area and local residents would be the ones suffering and the petition against the proposal was from the community
- Mrs Catlow also read out a letter from Hon. Alderman Sally Thomas in objection to the application whose points included:
- This did not fit in with the leisure usages in the area next to the Wedgewood Rooms which were more family orientated
 - It also failed to fit in with the ambience of the road
- (iii) Mr McCulloch made a deputation to object, whose points included:
- The representations in support all had the same text
 - There should not be an increase in sexual entertainment venues and if the applicant's other premises closed someone else could use the planning permission thereby increasing the number of these venues in the city.
- (iv) Ms McCombie also spoke to object as a local resident and trader, whose points included:
- There were residents living over the shops so it was in a residential area too with many wholly residential roads going off Albert Road, and they already had problems parking when returning home at night
 - Late night closing should be in a controlled area as there would be a rise in anti-social behaviour with a licensed premises closing so much later than the adjacent premises.
 - 14 year olds were able to enter the Wedgewood Rooms next door, so this was an inappropriate site for a lap dancing club.
- (v) Mr L Weymes then spoke as the applicant's agent, in support, whose points included:

- He referred to the previously dismissed appeal decision and the reasons related to the retail element not any moral grounds
- The previous use was for a venue attracting public audiences
- Albert Road had a variety of mixed users and was a vibrant night-time destination
- The applicant would renovate the building and had experience in running 2 other similar venues, and this would need a separate entertainment licence from the Council as Licensing Authority
- The interior would be acoustically treated and so noise would not be a problem

(vi) Mr P Ojla, the applicant, spoke in support of his application, whose points included:

- His gentlemen's clubs did not lead to noisy or anti-social behaviour, and were discreet neighbours
- The police had not raised objections
- It would not affect children as the club would open after 9pm
- He believed it would make the area safer and would have CCTV

(vii) Councillor Suzy Horton spoke as a local ward councillor to object, in summary:

- Vitality of the Retail Area - there had been regeneration in the area and the negative tone of the business may cause other traders to leave
- The proximity of schools and family venues - there were two schools, a nursery and a community centre nearby as well as the young audiences going to the Wedgewood Rooms
- The inconvenience to residents in the area - there would be the inconvenience caused by the very late closing of 4am which was out of keeping with other businesses in the area, with the noise of cars and taxis leaving as well as parking problems.

(Councillor Horton then withdrew from the room)

Members' Questions

Members asked for a further breakdown of the categories of local and non-local objectors and supporters within the petitions - it was reported that those objecting were approximately 90% local residents and supporters were approximately 66% local with about 10% being some distance from the area. The waste collection arrangements were queried and if there was an impact on the Harold Road item on the agenda - the City Development Manager stressed that each application should be determined independently on its own merits. Members also queried the level of noise that may emanate from the premises and where patrons would park?

Members' Comments

The nature of the customers could not be anticipated but members were concerned at the impact on the successful independent retail street and the viability of the businesses in Albert Road and on the community due to the family venues nearby. Parking in the area was already problematic and however well managed there would be noise caused by the 4am closing time affecting the amenity of residents.

RESOLVED that permission be refused for the following reasons:

1) In the opinion of the Local Planning Authority, the proposal would represent an inappropriate use in this location, out of keeping with the established character of the Albert Road and Elm Grove District Centre. The proposal is therefore contrary to Policy PCS23 of the Portsmouth Plan.

2) In the opinion of the Local Planning Authority, the proposal would be likely to have an adverse effect on the vitality and viability of existing premises within the Albert Road and Elm Grove District Centre. The proposal is therefore contrary to the aims and objectives of Policy PCS8 and to PCS23 of the Portsmouth Plan.

53. 16/00309/FUL - Land Adjacent To 3 Harold Road Southsea PO4 0LR - Construction of new end of terrace dwelling (re-submission of 15/01009/FUL) (Report item 2) (AI 7)

This item had been deferred from the Planning Committee of 27 April pending further information; the rights of way and adopted highway issues were clarified by the City Development Manager.

Councillor Horton was not a member of the committee for this item.

Deputations were then made.

- (i) Mr P Smith, spoke to object to the application as a previous councillor whose points included:
- Concern that whilst the proposed building would not exceed the western boundary of the garage the garden may traverse the red line
 - This application was now for a 2 bedroom not 3 bedroom property but there was not room on this site and there should be greater care for residents with the size of rooms and their amenity (such as downstairs toilet with folding door)
 - There were differences to the plan which made this a new application rather than resubmission
 - Concern of flood risk
 - Comments by Environmental Health indicated that there would be noise problems caused by the proximity to the Wedgewood Rooms and there should be sound insulation provided
 - Concern regarding damp caused by blocking of airbricks at neighbouring property No.3 Harold Road.
 - Loss of light
- (ii) Mr Miah spoke to object as an occupant of an adjacent property, whose points included:
- Concern regarding use of the public right of way to his garden
 - Adequate sewage
 - The proposed property was still very small and out of keeping with the street scene

- There would be overlooking of his garden and loss of privacy (with reference to the Human Rights Act) and loss of light to his property and concern it would cause dampness to his property and noise would be generated as well as a car park space being lost
- The demolition of the garage may cause damage to his property and for construction there would need to be access to his garden

(iii) Councillor Suzy Horton spoke to object as a ward councillor whose points included:

- There were significant changes to the application but there was concern regarding the amenity of the residents at No.3 Harold Road (blocking of airbricks and loss of light)
- The neighbours had received a council grant to make improvements to their property which could now suffer by the proposed construction
- The alleyway may still be used for access for the Wedgewood Rooms for deliveries and waste collection and even for fire escape purposes, so its access was significant
- Sound-proofing was necessary suggesting that noise issues were anticipated.

(Councillor Horton then withdrew during the committee's discussion of this application.)

Robert Parkin, as the committee's legal adviser, explained that use of the side access which was not an adopted highway was a private matter, and was not relevant to the committee's consideration. The City Development Manager confirmed that the alleyway was used for access arrangements with the Wedgewood Room's fire door and their recycling bins, and access would need to be maintained if permission was granted for this application.

Members' Questions

Members asked about the potential for loss of light to the adjacent property - the City Development Manager reported that there would be some loss of light in the morning to the west facing garden but this should not be significant in the afternoon/evening. Questions were also raised regarding the effect on the windows on the boundary and the potential for air bricks to be blocked - it was reported that the ventilation was a Building Regulations matter. Access to cycle storage was also raised (bicycles could be taken internally through the property and was not reliant upon the strip of land adjacent to the site). The level of noise complaints already raised against the Wedgewood Rooms was queried.

Members' Comments

Members were concerned that the proposed residential property would be in a position that it would generate noise complaints by future occupiers against the incumbent adjacent business. They felt that the proposal was an overdevelopment of the space and unneighbourly, giving a sense of enclosure to the neighbouring property. The new development would not relate well to the streetscene and created cramped living conditions.

RESOLVED that the application be refused for the following reason:

In the opinion of the Local Planning Authority, the proposal would represent a cramped overdevelopment of the site resulting in an unneighbourly increased sense of enclosure and loss of light to the detriment of the residential amenities of the occupiers of neighbouring properties. The proposal is therefore contrary to Policy PCS23 of the Portsmouth Plan.

54. 16/00187/HOU - 149 Essex Road Southsea PO4 8DH - Construction of replacement rear boundary wall with incorporated brick outbuilding (Report item 3) (AI 8)

(Councillor Horton was a member of the committee, as a standing deputy, for this item.)

The following information was contained in the Supplementary Matters report which was brought to the attention of members:

" An objector reported that Wimborne Road has been spelt incorrectly throughout the report. The incorrect version contains the letter 'U'. The objector also reports that the storm damage occurred in December 2015 not January 2016."

Deputations were heard.

- (i) Mrs Maxwell, objecting as the neighbour to the rear, whose points included:
- This proposal would have a negative effect on both her property and the wider Conservation Area
 - It was an excessive size for a shed
 - There would be the loss of spatial separation between their properties and there would be a loss of outlook to her property and loss of enjoyment of her home (Human Rights Act)
 - The design was not complementary for the area (she circulated pictures)
 - She felt that there were factual inaccuracies in the officer's report
 - The shed would be closer to her home than the applicants so was un-neighbourly
 - There were possible compromises regarding the pitch and moving the shed from the boundary wall or digging deeper into the applicant's garden
- (ii) Mrs Worley, the applicant, spoke in support of her application, whose points included:
- This would enhance the character of the joint alleyway with high quality bricks (she also circulated pictures) and increase security to her property
 - The walls of the alleyway were already 2.2m and there was 1.8m width of alleyway between the 2 properties so the shed was not on the rear neighbour's boundary wall, and it would break up the view of the property for the neighbour.

Members' Questions

The distance between properties and boundary walls was queried and it was asked if a reorientation of the pitch of the shed would be beneficial (it was reported this would increase the bulk on the common boundary)?

Members' Comments

Members were mindful of the small element of the application that took it over Permitted Development Rights.

RESOLVED that conditional permission be granted, subject to the conditions outlined in the City Development Manager's report.

55. Proposed dates for Planning Committee meetings in 2016 (AI 9)

Members noted the following dates for a 4 weekly cycle for the Planning Committee in 2016:

- 22 June
- 20 July
- 17 August
- 14 September
- 12 October
- 9 November
- 7 December

Members asked if there could be consideration of investment in a more effective projector for committee meetings.

The meeting concluded at 3.30 pm.

Signed by the Chair of the meeting
Councillor Frank Jonas

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Agenda Item 5



Portsmouth
CITY COUNCIL

Agenda item:

Decision maker: Planning Committee

Subject: 15/02010/PAMOD - Request to modify legal agreement attached to planning permission 12/01382/FUL relating to land at 249 Fratton Road

Report by: Assistant Director of Culture & City Development

Wards affected: Fratton

Key decision (over £250k): No

1 Purpose

The purpose of the report is to request Members consider the applicants request to modify the legal agreement attached to planning application 12/01382/FUL in relation to affordable housing provision.

2 Recommendation

Approve modification of the legal agreement to remove the requirement to provide three units of affordable housing.

3 Comments

The applicant obtained planning permission in December 2013 for the redevelopment of the site following the demolition of the existing building (the former Contented Pig PH) and the construction of a four storey building to provide 11 flats with associated parking and a new access to Fratton Road. The permission was subject to a legal agreement requiring the provision of three units of affordable housing.

Portsmouth Plan policy PCS19 seeks affordable housing on sites of 8 or more dwellings, for a minimum of 25% on developments of between 11 and 13 dwellings. The supporting text recognises that other factors that will be taken into account in assessing the suitability of sites for affordable housing includes economic viability. This is consistent with the NPPF which states if applicants can satisfy a LPA by way of open book negotiations that there is good reason why they should not make the contributions which would otherwise be sought, it is likely that a reduced contribution will be negotiated or that certain benefits may not be sought.

The applicants have submitted a case to renegotiate the affordable housing requirements associated with the development on the basis that the scheme is not economically viable. In support, they have submitted a viability report dated November 2015 undertaken by

S106 Affordable Housing. On the basis of the applicant's submission, it is their contention that the development is unable to make provision for affordable housing due to the economic viability of the scheme.

Economic viability has been established as a material consideration in the determination of planning applications with the National Planning Policy Framework recognising that viability is a central consideration in planning policy. The principles underlying economic viability rely on the assumption that land/building will be used in the form that secures the best value for the land owner. Therefore where an alternative value exists for the land/building that outweighs the value of the proposed redevelopment, then the land/building will not be brought forward for redevelopment. In this instance the development has commenced with the new building approaching completion to core and shell.

In response to this request the District Valuer has, on behalf of the Council, undertaken a review of the submitted viability report. The District Valuer concludes that the economics of the scheme as presented by the applicant are reasonable and demonstrate that the scheme is not economically viable. Having regard to the information provided by the applicant, the District Valuer suggests that the even with no affordable housing provision the development would not appear to be economically viable at the present time.

Having regard to the advanced stage of construction and notwithstanding its apparent economic unviability, it is considered appropriate to enter into a deed of variation to remove the requirement for affordable housing to prevent properties being competed that cannot be occupied.

4 Representations

No comments have been received.

5 Equality impact assessment (EIA)

The document is a consultation document and therefore there is no significant impact.

6 Legal services' comments

The City Solicitor is satisfied that it is within the City Council's powers to approve the recommendation as set out.

7 Finance comments

None

.....
Signed by:

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Legal Agreement dated 5 th December 2013 Planning Obligations SPD (September 2008) Providing Affordable Housing in Portsmouth (May 2012)	

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Agenda Item 6

PLANNING COMMITTEE 22 JUNE 2016

1 PM EXECUTIVE MEETING ROOM,
3RD FLOOR, GUILDHALL

REPORT BY THE CITY DEVELOPMENT MANAGER ON PLANNING APPLICATIONS

ADVERTISING AND THE CONSIDERATION OF PLANNING APPLICATIONS

All applications have been included in the Weekly List of Applications, which is sent to City Councillors, Local Libraries, Citizen Advice Bureaux, Residents Associations, etc, and is available on request. All applications are subject to the City Councils neighbour notification and Deputation Schemes.

Applications, which need to be advertised under various statutory provisions, have also been advertised in the Public Notices Section of The News and site notices have been displayed. Each application has been considered against the provision of the Development Plan and due regard has been paid to their implications of crime and disorder. The individual report/schedule item highlights those matters that are considered relevant to the determination of the application

REPORTING OF CONSULTATIONS

The observations of Consultees (including Amenity Bodies) will be included in the City Development Manager's report if they have been received when the report is prepared. However, unless there are special circumstances their comments will only be reported VERBALLY if objections are raised to the proposals under consideration

APPLICATION DATES

The two dates shown at the top of each report schedule item are the applications registration date- 'RD' and the last date for determination (8 week date - 'LDD')

HUMAN RIGHTS ACT

The Human Rights Act 1998 requires that the Local Planning Authority to act consistently within the European Convention on Human Rights. Of particular relevant to the planning decisions are *Article 1 of the First Protocol- The right of the Enjoyment of Property, and Article 8- The Right for Respect for Home, Privacy and Family Life*. Whilst these rights are not unlimited, any interference with them must be sanctioned by law and go no further than necessary. In taking planning decisions, private interests must be weighed against the wider public interest and against any competing private interests Planning Officers have taken these considerations into account when making their recommendations and Members must equally have regard to Human Rights issues in determining planning applications and deciding whether to take enforcement action.

Web: <http://www.portsmouth.gov.uk>

INDEX

Item No	Application No	Address	Page
01	16/00497/PLAREG	The Parade Tearooms Western Parade Southsea PO5 3JF	PAGE 3
02	16/00223/TPO	Land Surrounding Woodlands Walk St James Hospital Southsea PO4 8GB	PAGE 27
03	16/00613/TPO	Land Adjacent To Langstone Campus Playing Field West Of Furze Lane Southsea	PAGE 32
04	16/00576/FUL	43 Rivers Street Southsea PO5 4PL	PAGE 36
05	16/00674/FUL	2 Foster Road Portsmouth PO1 4HS	PAGE 40
06	16/00775/FUL	289 Milton Road Portsmouth PO4 8PG	PAGE 43
07	16/00650/HOU	40 St Ronans Road Southsea PO4 0PT	PAGE 46
08	16/00575/FUL	16 Victoria Road South Southsea PO5 2BZ	PAGE 49

THE PARADE TEAROOMS WESTERN PARADE SOUTHSEA PO5 3JF**RETROSPECTIVE APPLICATION FOR CHANGE OF USE OF PART OF BUILDING TO FORM CAFE (CLASS A3) TO INCLUDE EXTERNAL ALTERATIONS AND SINGLE STOREY EXTENSIONS AFTER REMOVAL OF EXISTING CANOPY (AMENDED SCHEME 15/00380/FUL)****Application Submitted By:**

Markaz Ltd

On behalf of:

Markaz Ltd

FAO Mr Thomas Ponsford

RDD: 24th March 2016**LDD:** 20th June 2016**SUMMARY OF MAIN ISSUES**

Planning permission was granted for a very similar development in 2015 (ref.15/00380/FUL). Following minor changes to the building's design and failure to discharge pre-commencement conditions, this application seeks to regularise the development that has now been completed. Therefore, the key issues for consideration within this application relate to the design elements that differ from those previously considered and approved, and the elements that were reserved by planning condition. A copy of the previous Committee Report relating to planning permission 15/00380/FUL is appended for reference (see Appendix 1 containing Committee Report, SMAT and SMAT Appendix).

The site and surroundings

This application relates to a former electricity sub-station located to the north-west corner of Southsea Common on Western Parade, just to the south of its junction with Castle Road. Prior to its conversion to form tearooms in 2015 as part of planning permission 15/00380/FUL, much of the building was vacant and had fallen into a poor state of repair. The northern section of the building remains in use as an electricity sub-station.

To the south and west the common is characterised by wide open spaces with views out towards the Solent. A number of mature holm/turkey oaks immediately adjacent to the application site soften the backdrop to the Common which is formed by striking 5/6-storey Victorian terraces. Of the three roads behind the Common, it is noted that Western Parade has retained the most consistent character making a significant contribution to the character and appearance of the 'Seafront' Conservation Area in which the application site is located and the adjoining 'Castle Road' Conservation Area.

The site is also located within the indicative flood plain (Flood Zone 3).

The proposal

Retrospective permission is sought for change of use of part of building to form cafe (Class A3) to include external alterations and single storey extensions after removal of existing canopy (amended scheme 15/00380/FUL). This application effectively seeks to formalise a number of

unresolved issues (planning conditions) and minor design changes following the grant of planning permission in 2015.

Relevant planning history

Planning permission was granted in April 2015 (ref.15/00380/FUL) for the change of use of part of building to form cafe (Class A3) to include external alterations and single-storey extensions after removal of existing canopy.

Conditional permission was granted by the Planning Committee in August 2010 (ref 10/00660/FUL) for external alterations to the building including the installation of louvres and shutters beneath the existing canopy to form two Class A1 kiosks. An application to renew this permission was also granted planning permission by the Planning Committee in September 2013 (ref 13/00712/FULR).

POLICY CONTEXT

In addition to the aims and objectives of the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS9 (The Seafront), PCS12 (Flood Risk), PCS13 (A Greener Portsmouth), PCS17 (Transport) and PCS23 (Design and Conservation). Saved policy DC21 of the Portsmouth City Local Plan 2001-2011, The Seafront Masterplan Supplementary Planning document (SPD) and Conservation Area appraisals for the 'Seafront' and 'Castle Road' Conservation Areas would also be material to the determination of this application.

CONSULTATIONS

Garden History Society

No comments received.

Coastal Partnership

The Eastern Solent Coastal Partnership has no objection to the development and its proposed alterations. Although in Flood Zone 3 and therefore at a high risk of flooding, suitable mitigation measures have been identified and the development does not post an unacceptable flood threat.

Environment Agency

The EA have no objections to the proposed development, as submitted.

The EA previously responded to a similar previous application at the site (LPA ref. 15/00380/FUL), to which there were no objections. The EA were satisfied that the development did not pose an unacceptable risk to people and property from flooding.

The additional elements to the built development (currently subject of a retrospective planning application) are not substantial as far as our remit is concerned.

The EA maintains its position (set out in our letter ref. HA/2015/116948/01, dated 1 May 2015) that finished floor levels of 3.4m AOD are acceptable, and that the following advice regarding flood resilience/ resistance should be taken into consideration by the developer and operator of the site.

Coastal and Drainage

No objection raised.

Contaminated Land Team

Land condition was considered as part of Planning Permission 15/00380/FUL resulting in the following report:

'Phase 2 Environmental Ground Investigation Report. Proposed Tea Rooms, Southsea Common, Portsmouth. Opus. E-E1611.00. August 2015'.

The investigation found redundant electrical cables and some heavy metals in made ground and so appropriate PPE should be worn by ground workers and excavated surface soil should be removed from site, which given the constraints of the location will be occurring anyway.

Highways Engineer

The proposal for a retrospective application for the change of use of the structure to a cafe is generally acceptable in highways terms. However, issues which have raised concern involve the servicing of the site and cycle parking.

The proposal is to convert the building into a cafe/restaurant, to be open daily from 8:00am to 6:00pm for most of the year, and up to 9:00pm in the summer months. The building has good pedestrian accessibility and bus services (1, 23) operate along Duisberg Way. Western Parade falls within the KC residents' parking zone. Western Road experiences a high pressure on parking with 0.5 spaces per household, with residents competing for these with visitors and tourists.

Western Parade has Pay & Display on both sides, from which KC permit holders are exempt. Pay & Display is available on all roads surrounding Southsea Common to provide parking for all users of the area.

It was the preference of the highways officer to remove two parking bays and provide a dropped kerb crossing as part of this planning process, however, due to the complexities of the Traffic Regulation Order (TRO) process, there was a potential risk that this could jeopardise the planning permission if the TRO proves incapable of delivery. It was therefore agreed that a condition be imposed to require a Servicing Management Plan to be drawn up by the applicant and agreed prior to the premises being opened for business. This plan can restrict servicing and delivery times so that disruption to traffic is minimised, and highway safety risk is also minimised.

The cycle parking shown on Drawing PL.40.15 of the original application (15/00380/FUL) was for 5 stands, providing 10 spaces. Only 4 stands (8 spaces) were installed during the build, these were provided under cover of an overhanging roof.

Recommendation: No objection raised, subject to the imposition of conditions relating to the retention of cycle parking and refuse storage and adherence to the Servicing Management Plan.

Environmental Health

This consultation is with regards to the potential impact on the amenity of neighbouring uses from the proposed A3 use.

Comments were previously made on the above proposal in a memo dated 19th April 2015. The principle issues associated with A3 use are those of odour and noise.

Odour - The applicant has installed a kitchen extraction system to manage cooking odours. No complaints have been received concerning odours from this premise. The installed extraction system includes 4 stages of filtration, including HEPA (High Efficiency Particulate Air) and carbon filtration. I am satisfied that this design is suitable for the cooking operations at this location, however I recommend that a condition be imposed requiring the retention and maintenance of the proposed extraction system in perpetuity.

Noise - Noise from the proposed A3 use can take many forms. One noise complaint has been received concerning deliveries to the premises at 07:00 hours. Condition 12 of the decision notice for application 15/00380/FUL concerns delivery times and the complaint revealed that

deliveries were allegedly taking place in contravention of this condition. I recommend that Condition 12 be retained.

Noise can also result from the kitchen extraction system and other plant / equipment. No noise complaints have been received concerning these sources. The extraction system (with silencer installed) is well documented and I recommend a condition for its retention. The information concerning the air-conditioning units is less clear, however. There are five units situated on the flat roof, however, the submitted information only makes a specific reference to the make and models of two of the external units. I recommend that clarification is sought for the makes and models for all 5 units and a condition for all plant and equipment to be retained and maintained (unless otherwise agreed in writing with the LPA).

The activities and entertainment of customers also has the potential to impact on the amenity of neighbouring uses. No external seating has been proposed with the application and the provision of air conditioning negates the need to open doors or windows for ventilation. The hours of use are at their longest from 08:00-21:00 hours during the summer and no complaints have been received concerning customer or entertainment noise. I'm satisfied that there is unlikely to be a significant adverse impact on neighbouring residential uses and should issues arise it will be sufficient to deal with these through the statutory nuisance provisions of the Environmental Protection Act 1990 and the Licensing Act 2003.

Southern Electric

No comments received.

Tree Officer

A site visit has not been undertaken on this occasion. The Arboricultural Officer is familiar with the site and the trees having previously visited on several occasions following submission of 15/00380/FUL.

There are no arboricultural objections to Proposal 1 [16/00497/PLAREG].

REPRESENTATIONS

At the time of writing sixteen letters of representation had been received from local residents, fourteen in objection and two of general comment.

The objections can be summarised as follows: (a) Loss of protected open space; (b) Visual impact; (c) Increase in noise and disturbance; (d) Parking & Highways disruption; (e) Smells, odours and noise from cooking processes and extraction equipment; (f) Impact on local businesses; and (g) Work has already taken place.

It is noted that many of the representations highlighted above also object to further works proposed as part of planning application (ref.16/00654/FUL) for an external balcony and seating areas. However, this application has now been withdrawn. The letter of general comment detailed above raises no objection to the current proposal (15/00497/PLAREG) but objects to further works previously proposed by 16/00654/FUL.

COMMENT

The determining issues in this application are:

1. The principle of the development;
2. Design changes, including impact on heritage assets;
3. Impact on residential amenity;
4. Highways/Parking Implications;
5. Flood risk;
6. Other matters including those raised within representations.

The principle of the development

The principle of the development was approved as part of planning application 15/00380/FUL. On the basis that there have been no material changes in circumstance and the footprint of the building remains unchanged from that previously considered and approved, the principle of the development remains acceptable. Full details of the previous consideration can be found within the appended report (15/00380/FUL).

Design, including impact on heritage assets

Policy PCS23 of the Portsmouth Plan echoes the principles of good design set out within the NPPF requiring that new development should be of an excellent architectural quality; create public and private spaces that are clearly defined as well as being safe, vibrant and attractive; relate well to the geography and history of Portsmouth and protect and enhance the city's historic townscape and its cultural and national heritage.

In addition, when determining planning applications the Local Planning Authority (LPA) must also consider what impact the proposal would have on both designated and non-designated heritage assets. Section 66 of the Listed Buildings and Conservation Areas Act 1990 (as amended) places a duty on the LPA to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Due to the inclusion of the Common on the register of Historic Parks and Gardens, the same statutory duty of consideration would apply. Furthermore, Section 72 of the Act requires that LPAs pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

The general design concept for the building was approved as part of planning application 15/00380/FUL and this has not changed significantly. The elements of the design that differ from that previously considered include:

- Changes to internal floor levels resulting in alterations to the western elevation;
- Changes to the design, number and position of roof lights within the western elevation;
- Inclusion of timber housing to enclose five air conditioning units at roof level;
- Air conditioning and extraction equipment installed at roof level.

In general terms the visual changes are all relatively minor and do not significantly affect the design concept or appearance of the building from that previously considered. The most significant change would be to the internal floor level which is apparent to the western elevation where a taller base wall has been incorporated and a change in levels between the café/restaurant floorplate and the Common is noticeable due to the inclusion of full height windows. However, the base wall has been treated in an appropriate manner to match the rest of the building and is obscured to a degree by planting troughs.

It was previously highlighted that the café/restaurant would inevitably incorporate extraction and cooling equipment at roof level and the finer details of this equipment was reserved by planning condition. Now that this equipment has been installed it is apparent that it is visible from a number of locations on the Common and Western Parade. However, the equipment is broadly in line with that previously indicated and the applicant has minimised its visual impact by locating it towards the middle of the flat roof behind a small parapet wall. On the basis that the equipment and housing is not particularly visible at close range and does not appear overly prominent or obtrusive from longer distance views due to the scale of the recipient building and its backdrop, this element of the proposal is considered to be acceptable in visual terms. To the west, views of the equipment from residential properties is reduced to a degree by screening in the form of large mature trees.

With the minor design alterations to the proposal from that previously approved, it is considered that overall, the proposal represents a significant improvement to the building in visual terms and makes a positive and sympathetic addition to the backdrop of the Common with the mature trees and Victorian Terraces beyond. Notwithstanding the loss of open space at the site, it is considered that the proposal would enhance the character and appearance of 'The Seafront' Conservation Area, the adjoining 'Castle Road' Conservation Area and the setting of Southsea Common which is included on the Register of Historic Parks and Gardens.

On the basis that the proposal would be considered to enhance the setting and character of the designated and non-designated heritage assets within the area, the requirements of paragraphs 132-134 of the NPPF, which seeks to address the significance of any harm caused by development, would not be applicable in this instance.

Impact on residential amenity

The application site is situated in close proximity to residential properties located on the opposite side of western Parade. It was previously accepted that the introduction of a café/restaurant in this location would inevitably increase activity within the area with additional comings and goings to the building itself. However, it was previously considered that having regard to the surrounding character of the area and the city's wider objectives of introducing a vibrant mix of leisure and tourism uses to the seafront that will attract people all year round, the proposal would not have had a significant adverse impact on the amenity of adjoining residents and any limited localised harm would be outweighed by the positive benefits.

Notwithstanding this previous assessment, a number of representations have raised concerns in respect of smells associated with cooking operations at the premises. However, the City Council's Environmental Health Team (EHT) has confirmed that the extraction system installed includes 4 stages of filtration, including HEPA (High Efficiency Particulate Air) and carbon filtration which would be sufficient to remove any significant impact resulting from cooking operations. It is suggested that the odours currently experienced could simply be a result of the kitchen door being left open (bypassing the extraction and filtration equipment) which could easily be addressed by the applicant. The EHT confirm that no complaints have been received concerning odours from this premises and a planning condition is proposed to require the retention of the extraction equipment already installed.

Given the proximity to residential properties, a condition was previously imposed restricting the timings of deliveries to between 8am and 9pm (10am and 6pm on Sundays and Bank Holidays) which was considered to be reasonable. This was to reduce potential disturbance to residents at unsociable hours and to allow improved access to the application building when parking spaces are more likely to be available. Representations have highlighted that this condition had not been complied with and deliveries are taking place as early as 5am. This issue has been raised with the applicant who advises that this is a result of a change in suppliers as the café/restaurant established itself. On the basis that the applicant has confirmed that they can technically comply with the original condition and that all new suppliers have been alerted to this restriction, the same planning condition is suggested. Should there be further breaches of this condition, the Local Planning Authority can address the issue through a Breach of Condition Notice.

There is no change to the proposed hours of operation from that previously considered. Therefore, the same condition restricting opening hours to visiting members of the public to 8am to 9pm is proposed.

Highways/Parking Implications

It was previously accepted that the proposed use would result in an increased demand for parking at the site and there would inevitably be some conflict with residential parking facilities. However, the City Council's Highways Engineer raised no objection in respect of parking and it was noted that the site was served by good public transport links and was located in an area of

the city where new leisure and tourism uses were encouraged. It is also noted that since determination of the previous application (15/00380/FUL), parking meters have been installed throughout the area removing the 3 hour free parking facilities for non-residents within the KC residents' parking zone. This is likely to discourage customers from arriving by car or encourage them to consider alternative more sustainable methods of transport.

Therefore, notwithstanding residents' ongoing concerns in respect of parking, it is considered that an objection in this respect could not be sustained, particularly given the character of this particular area of the city where leisure and tourism uses is actively encouraged.

The applicant has submitted a Service Management Plan to address the requirements of Condition 13 previously imposed to planning permission 16/00497/PLAREG.

Flood risk

The applicant has confirmed (and provided evidence) that flood resilient measures previously highlighted within the Flood Risk Assessment and required by planning condition have been incorporated into the building's design. On the basis that building operations have now been completed, it is not considered necessary to re-impose the condition.

Other matters including those raised within representations

On the basis that building operations have now been completed in accordance with the previously improved Arboricultural Impact Assessment and Method Statement, it is not considered necessary to re-impose the condition to protect the amenity value of trees owned and managed by the City Council.

The proposal resulted in the loss of commemorative artwork on the building dedicated to Rachel Lyons. In consultation with the Development Management Team and the family of Rachel Lyons, a new memorial has been incorporated in to the building's design.

Reference is made to damage to the ground towards the front of the building. However, it is noted that as a result of its shaded position, grass has never fully established in this area, although it is accepted that the increased footfall has not helped the situation. The City Council as landowner is currently in discussions with the developer to establish how this issue can be addressed whilst ensuring the health of the trees that line Western Parade. It is in the interest of both the Council and the developer to resolve this matter.

A number of representations highlight that the development has already taken place. However, this does not affect how the current application should be determined against the relevant planning policies and any work that has already taken place would have been carried out entirely at the applicant's own risk. Planning permission was previously granted for a very similar scheme in 2015 (15/00380/FUL).

The Local Planning Authority has exceeded its statutory requirement in respect of public notification of this application by notifying adjoining residents by letter and displaying site notices around the application site. An advert was also displayed in the local press.

Impact on property value is not a material planning consideration.

RECOMMENDATION Conditional Permission

Conditions

1) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: PL40.16 01, PL40.16 03 and PL40.16 04.

- 2) The kitchen extraction system hereby approved shall be permanently retained in accordance with the submitted details (specification as detailed within letter from Glenn Archdale of JAG Services UK Ltd. dated 18.03.2016) unless otherwise agreed in writing with the Local Planning Authority.
- 3) The external air conditioning units hereby approved shall be permanently retained in accordance with the submitted details (Mitsubishi units - 2 X PUAZX-ZRP71VHA, 2 x PLA-RP125BA & 1 x PCA-RP7HAQ) unless otherwise agreed in writing with the Local Planning Authority.
- 4) Other than for the purpose of access to and from the premises, the external kitchen door (shown as Delivery Entrance on approved plan PL.10.16 03) shall remain closed at all times.
- 5) The café/restaurant (Class C3) premises hereby permitted shall remain closed to and vacated by members of the public outside of the hours of 8:00am and 9:00pm on any day.
- 6) No deliveries shall be carried out outside of the hours of 8:00am and 9:00pm Monday to Saturday and 10:00am and 6:00pm on Sundays and any recognised Bank or public holidays.
- 7) The refuse store shown on approved drawing PL40.16 03 shall be retained for the storage of refuse at all times.
- 8) Unless otherwise agreed in writing with the Local Planning Authority, the café/restaurant (Class A3) hereby permitted shall operate in accordance with the submitted Servicing Management Plan.
- 9) The bicycle storage facilities comprising four 'Sheffield Stands' and located as shown on approved drawing PL40.16 03 shall be retained for the storage of bicycles at all times.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and or re-enacting that Order with or without modification) the application site shall not be used for any purpose other than as a café/restaurant within Class A3 without the prior written permission of the Local Planning Authority obtained through the submission of a formal planning application.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and or re-enacting that Order with or without modification) no enlargement, improvements or other alteration permitted by Part 7 of the Order shall be carried out without the prior written permission of the Local Planning Authority obtained through the submission of a formal planning application.

The reasons for the conditions are:

- 1) To ensure the development is implemented in accordance with the permission granted.
- 2) In the interests of residential amenity in accordance with policy PCS23 of the Portsmouth Plan.
- 3) In the interests of residential amenity in accordance with policy PCS23 of the Portsmouth Plan.
- 4) To ensure that smells and odours from cooking operations at the premises are expelled from the building through the kitchen extraction system approved as part of Condition 2 in the interests of residential amenity in accordance with policy PCS23 of the Portsmouth Plan.

- 5) In the interests of residential amenity in accordance with policy PCS23 of the Portsmouth Plan.
- 6) To protect the amenities of the occupiers of neighbouring residential properties in accordance with policy PCS23 of the Portsmouth Plan.
- 7) To ensure that adequate visually acceptable provision is made for the storage of refuse and recyclable materials having regard to the sites location within a conservation area in accordance with policies PCS15 and PCS23 of the Portsmouth Plan.
- 8) To accommodate practical and efficient delivery/collection of goods/supplies and refuse/recyclable materials in the interests of the safety and convenience of users of the highway network in accordance with the aims and objectives of policies PCS17 and PCS23 and the NPPF.
- 9) To ensure that adequate provision is made for cyclists in accordance with policies PCS14 and PCS17 of the Portsmouth Plan.
- 10) In order that the Local Planning Authority may exercise further control of potential uses having regard to the specific judgement that has made in respect of the wider public benefits of the proposal which outweigh the presumption against the loss of protected open space; and to control any further alterations and additions having regard to the sites designation as protected open space and its location within the 'Seafront' Conservation Area in accordance with policies PCS13 and PCS23 of the Portsmouth Plan and the aims and objectives of the Seafront Masterplan SPD.
- 11) In order to control any further alterations and additions having regard to the sites designation as protected open space and its location within the 'Seafront' Conservation Area in accordance with policies PCS13 and PCS23 of the Portsmouth Plan.

1) PRO-ACTIVITY STATEMENT

Notwithstanding that the City Council seeks to work positively and pro-actively with the applicant through the application process in accordance with the National Planning Policy Framework, in this instance the proposal was considered acceptable and did not therefore require any further engagement with the applicant.

2) NB This permission is granted in accordance with the provisions of Section 73 of the Town and Country Planning Act 1990, which makes provision for the retrospective granting of planning permission for development which has commenced and/or been completed.

APPENDIX 1

PLANNING COMMITTEE REPORT - 29 APRIL 2015

CHANGE OF USE OF PART OF BUILDING TO FORM CAFE (CLASS A3) TO INCLUDE EXTERNAL ALTERATIONS AND SINGLE STOREY EXTENSIONS AFTER REMOVAL OF EXISTING CANOPY

Application Submitted By:

Markaz Ltd

On behalf of:

Markaz Ltd

FAO Mr Thomas Ponsford

RDD: 13th March 2015

LDD: 14th May 2015

SUMMARY OF MAIN ISSUES

The key issues in this application are whether the principle of the development is acceptable in the location proposed, whether the development would be acceptable in design terms, whether it would preserve or enhance the character and appearance of the 'Seafront' and 'Castle Road' Conservation Areas, whether it would preserve the setting of Southsea Common which is included on the Register of Historic Parks and Gardens, whether it would have a significant adverse impact on the residential amenity of adjoining occupiers, whether it would be acceptable in highways terms and whether the proposal would result in an increased risk of flooding at the site.

The Site and surroundings

This application relates to an electricity sub-station located to the north-west corner of Southsea Common on Western Parade, just to the south of its junction with Castle Road. Whilst much of the building is vacant and has fallen into a poor state of repair, the northern section remains in use as an electricity sub-station. Although relatively functional in its design, the building incorporates a simple open colonnade along its western elevation giving a pavilion style appearance. As a result of its scale, position and colourful murals to each of its elevations dedicated to Rachel Lyons, the building represents a prominent feature of this part of the seafront.

To the south and west the common is characterised by wide open spaces with views out towards The Solent. A number of mature holm/turkey oaks immediately adjacent to the application site soften the backdrop to the Common which is formed by striking 5/6-storey Victorian terraces. Of the three roads behind the Common, it is noted that Western Parade has retained the most consistent character making a significant contribution to the character and appearance of the 'Seafront' Conservation Area in which the application site is located and the adjoining 'Castle Road' Conservation Area.

The site is also located within the indicative flood plain (Flood Zones 2 & 3).

The proposal

Planning permission is sought for the change of use of part of the building to form a café/ restaurant (Class A3) to include external alterations and single-storey extensions, following the removal of the existing canopy.

Relevant planning history

Conditional permission was granted by the Planning Committee in August 2010 (ref 10/00660/FUL) for external alterations to the building including the installation of louvres and shutters beneath the existing canopy to form two Class A1 kiosks. An application to renew this permission was also granted planning permission by the Planning Committee in September 2013 (ref 13/00712/FULR). This permission has not been implemented but is still extant.

POLICY CONTEXT

In addition to the aims and objectives of the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS9 (The Seafront), PCS12 (Flood Risk), PCS13 (A Greener Portsmouth), PCS17 (Transport) and PCS23 (Design and Conservation). Saved policy DC21 of the Portsmouth City Local Plan 2001-2011, The Seafront Masterplan Supplementary Planning document (SPD) and Conservation Area appraisals for the 'Seafront' and 'Castle Road' Conservation Areas would also be material to the determination of this application.

CONSULTATIONS

Garden History Society

Formal comments not received at the time of writing.

Coastal Partnership

No objection raised subject to the implementation of the Flood Risk Assessment prior to first use of the premises. It is suggested that the developer considers additional flood resistance and resilience measures within the design and sign up to the Environment Agency's flood warning service to ensure they are aware of flood risks and have ample warning of any extreme flood events.

Environment Agency

Formal comments not received at the time of writing.

Coastal and Drainage

Formal comments not received at the time of writing.

Contaminated Land Team

The current substation has been present from 2001, and previously a substation has been present on the site since the 1950s. The building itself overlaps an older building plinth indicating earlier usage of the site. As such there is the likely use of PCBs and the potential for contamination to be present on this site. Records from Scottish and Southern Electricity also indicate there may be live wires inside the building and so they should be consulted on the implications of work to both the building and ground in the vicinity of the substation, and upon any impacts of the current substation on concurrent usage of the building.

Given the history of development on this site conditions relating to land contamination are requested.

Highways Engineer

The proposal for the change of use of this structure to a café is generally acceptable in highways terms. However, issues which have raised concern involve the servicing of the site.

The proposal is to convert the building into a café/restaurant, to be open daily from 8:00am to 6:00pm for most of the year, and up to 9:00pm in the summer months. The building has good pedestrian accessibility, and the bus service 19 operates along Southsea Terrace and Western Parade. Western Parade falls within the KC residents' parking zone. The echelon on-street parking adjacent to the site currently includes a 3-hour free parking period for non-permit holders and there is Pay & Display available on all roads surrounding Southsea Common.

It is the preference of the highways officer to remove two parking bays and provide a dropped kerb crossing as part of this planning process, however, due to the complexities of the Traffic Regulation Order (TRO) process, there is a potential risk that this could jeopardise the planning

permission if the TRO proves incapable of delivery. It has therefore been agreed that a condition be imposed to require a Servicing Management Plan to be drawn up by the applicant and agreed prior to the premises being opened for business. This plan can restrict servicing and delivery times so that disruption to traffic is minimised, and highway safety risk is also minimised.

No objection raised, subject to the imposition of conditions for: 1 The cycle parking shown on the plans to be available for use by staff and customers prior to the commencement of use; 2 The refuse/recyclables store shown on the plans to be provided prior to commencement of use; 3 A servicing management plan to demonstrate the delivery/servicing times, method and type of deliveries, and how they are managed and coordinated be submitted and approved prior to commencement of use.

Environmental Health

Formal comments not received at the time of writing.

Southern Electric

Formal comments not received at the time of writing.

Tree Officer

Formal comments not received at the time of writing.

REPRESENTATIONS

At the time of writing five letters of representation had been received from local residents, three in objection and two in support of the proposal.

The objections can be summarised as follows: (a) Loss of protected open space; (b) Increase in noise and disturbance; (c) Parking disruption; (d) Smells, odours and noise from cooking processes and extraction equipment; (e) Design would not deliver 'excellent architectural quality'; (f) No need for an additional café/restaurant in the area given the existing uses in Castle Road; (g) Increase in litter due to the lack of refuse bins on the Common; (h) Increase in anti-social behaviour from alcohol consumption on the premises; (i) Benefits of the proposal do not outweigh the harm; (j) The proposal would remove changing facilities within the open colonnade; and (k) Work has already commenced.

The support comments can be summarised as follows: (a) This part of the Common has little offer in the way of refreshments; and (b) The building in its current form is attraction anti-social behaviour and illegal activities.

COMMENT

The determining issues in this application are:

1. Principle of the proposed development
2. Design, including impact on the character or appearance of 'The Seafront' and 'Castle Road' Conservation Areas and the setting of Southsea Common
3. Impact on residential amenity
4. Highways/Parking Implications
5. Flood risk
6. Other matters including those raised within representations.

Permission is sought for the change of use of the building to form a café/restaurant (within Class A3) with extensions to the east, south and west following the removal of the existing open colonnade. A new footpath would link the building to existing footpaths immediately to the south and at the back edge of the carriageway.

Principle of the proposed development

The application site is located on Southsea Common which provides much of the seafront with its open character, and is an important part of the city's network of 'green infrastructure'. The application site is designated as protected open space by policy PCS13 of the Portsmouth Plan, although a building has clearly existed in this location for a considerable period of time. With the addition of extensions to the east, west and south elevations, the proposal would result in a net loss of approximately 80sq.m. of protected open space.

Policy PCS13 of the Portsmouth Plan states that: 'The City Council will work collaboratively to protect, enhance and develop the green infrastructure network in the following ways: Refusing planning permission for proposals which would result in the net loss of existing areas of open space and those which would compromise the overall integrity of the green infrastructure network in the city, unless there are wider public benefits from the development which outweigh the harm'. The supporting text to this policy states: 'There is a great deal of pressure on Portsmouth's green infrastructure network from increasing population numbers to climate change and the need for new development sites. The city lacks suitable spaces to provide additional green infrastructure assets to absorb this pressure. Therefore the council's priority will be to focus resources on protecting, enhancing and linking together the existing network. There will be a presumption against any development involving the net loss of open space unless there are wider public benefits that outweigh the harm of this loss'.

Policy PCS9 and the supporting Seafront Master Plan Supplementary Planning Document seek to ensure that all new development contributes towards the revitalisation of the Seafront, tourism and wider regeneration strategy for Portsmouth. This will be achieved by, but not limited to: encouraging and supporting the redevelopment of existing buildings for leisure and tourism uses; encouraging and supporting proposals for small scale restaurants, cafes and other uses that will diversify the leisure and cultural offer without detracting from the open character of the seafront; and protecting the open nature of the area around the Common and other undeveloped areas.

The applicant has highlighted that the existing building has been vacant for a considerable period of time and as a result of neglect, has fallen into a poor state of repair. The western side of the building beneath the canopy of large mature trees is often in shade, and as a result of the ground conditions, includes little in the way of grass cover. Representations have also highlighted that as a result of the secluded and dark nature of the open colonnade to the eastern elevation, the site frequently subjected to anti-social and illegal behaviour which has a negative impact on the perception of community safety within the area.

As part of the wider community benefit required by policy PCS13 of the Portsmouth Plan, the applicant has also designed additional toilet capacity into the building with the aim of opening the facilities up to the general public and not just paying customers. In order to remove the apprehension of using a toilet within a café/restaurant, the applicant has also indicated that the facilities would be included with the Portsmouth City Council's Community Toilet Scheme that are advertised for public use.

Whilst the loss of any protected open space is not ideal in any circumstance, careful regard is made to the long term vacant nature and condition of the building, the usability and quality of the open spaces immediately adjacent to it, the impact of anti-social behaviour as a result of its condition and current use, any the positive benefits arising from the regeneration of the site including the positive visual improvements (explored below), the provision of publicly available conveniences and the introduction of a use and activity that would deter anti-social behaviour around the building.

Having regard to the policy requirements of PCS13 of the Portsmouth Plan and the provisions of the NPPF, it is considered that the wider public benefits of the proposal, as highlighted above, would outweigh the presumption against the loss of protected open space and would contribute

towards the wider objectives of the Seafront Masterplan in providing a vibrant mix of leisure and tourism uses within the area. Therefore, the principle of the proposed use is considered to be acceptable.

Design, including impact on the character or appearance of 'The Seafront' and 'Castle Road' Conservation Areas and the setting of Southsea Common

Policy PCS23 of the Portsmouth Plan echoes the principles of good design set out within the NPPF requiring that new development should be of an excellent architectural quality; create public and private spaces that are clearly defined as well as being safe, vibrant and attractive; relate well to the geography and history of Portsmouth and protect and enhance the city's historic townscape and its cultural and national heritage.

In addition, when determining planning applications the Local Planning Authority (LPA) must also consider what impact the proposal would have on both designated and non-designated heritage assets. Section 66 of the Listed Buildings and Conservation Areas Act 1990 (as amended) places a duty on the LPA to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Due to the inclusion of the Common on the register of Historic Parks and Gardens, the same statutory duty of consideration would apply. Furthermore, Section 72 of the Act requires that LPAs pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

The existing building is of a relatively functional design lacking the historic or architectural quality of the grand Victorian terraces immediately to the north and east. The building is lifted along its western elevation by a simple open colonnade and incorporates a colourful mural dedicated to Rachel Lyons. Overall however, the building has a tired and neglected appearance and has fallen into a poor state of repair detracting from the character and appearance of the conservation area and the seafront. As a result of its prominent location and the open nature of the Common, long distance views of the building can be achieved from a number of locations to the south and west. Therefore, any alterations and additions need to be sympathetic to the character of the area reflecting its prominent location and the quality of the historic backdrop to the Common as set out within 'The Seafront' Conservation area guidelines.

The proposal would involve alterations to the larger section of the existing building with two extensions to the east, west and southern elevations incorporating two separate design solutions and following the removal of the existing colonnade. On the basis that the original colonnade represents the only part of the original building with any architectural quality and charm, the applicant seeks to replace it with a larger extension that would hint at the form of the original structure by incorporating painted brick columns with recessed full height glazed panels and a slender roof form that projects slightly beyond the building façade. This element of the extension would wrap around the south-west corner of the building incorporating an existing lower brick projection on the southern elevation. In order to integrate the existing larger sub-station building with the extension it is proposed that the existing painted brickwork would be colour treated to match.

In order to improve legibility and direct customers to a single entrance, the south and west elevations have been deliberately designed without any obvious entrance features, instead directing customers to the west of the building along the existing footpaths. A second extension to the western elevation would incorporate a different design solution to provide contrast and help break a large expanse of painted brickwork. This would be clad in painted timber with an enlarged entrance feature and projecting canopy above a bicycle storage area.

The applicant has taken a relatively simple and modern approach to extend a large unwieldy building resulting in a crisp contemporary structure that reflects elements of the original building and elements of the larger Victorian terraces behind. It is considered that the subtle details, such as the recessed windows, full height glazing and slender roof will help elevate the proposal from

being a good design to an excellent design and a significantly positive addition to the backdrop of Southsea Common.

As a result of the site constraints and the need to provide appropriately designed refuse stores and toilet facilities, the western elevation of the building is less successful in design terms. However, it is still considered to be of a standard that reflects the quality and character of the area, providing a contrast to the other elevations of the building and reflecting its position below the canopy of a number of mature trees.

It is inevitable that café/restaurant use is likely to involve the installation of extraction and cooling equipment somewhere on the building. The applicant has attempted to position this equipment as close to the centre of the roof as possible in order to reduce its visual impact. Having regard to its position on the higher roof behind a small parapet it is considered that the equipment would only be visible from long view and from an increased distance would not appear overly prominent or obtrusive given the scale of the building and the back drop. To the west, views of the equipment on the roof from residential windows would be reduced to a degree by the large mature trees.

Overall it is considered that the proposal would represent a significant improvement to the building in visual terms and would represent a positive and sympathetic addition to the backdrop of the Common with the trees and Victorian Terraces beyond. As a result, it is considered that the proposal would enhance the character and appearance of 'The Seafront' Conservation Area, the adjoining 'Castle Road' Conservation Area and the setting of Southsea Common which is included on the Register of Historic Parks and Gardens.

On the basis that the proposal would be considered to enhance the setting and character of the designated and non-designated heritage assets within the area, the requirements of paragraphs 132-134 of the NPPF, which seeks to address the significance of any harm caused by development, would not be applicable in this instance.

Impact on residential amenity

The application site is situated in close proximity to residential properties located on the opposite side of western Parade. It is accepted that the introduction of a café/restaurant in this location would inevitably result in an increase in activity within the area and a noticeable increase in comings and goings to the building itself. However, the application site is located just to the south of the Castle Road Local Centre and provides one of the key routes to and from the seafront. In combination with the recreational facilities provided by the large areas of open space it is considered that residents would be accustomed to a certain degree of activity, particularly during peak summer months and when events are held on the Common.

The applicant has indicated that the hours of operation would be between 8am and 9pm during summer months and 8am and 6pm during winter months. This is considered to be reasonable, avoiding noise and disturbance at unsociable hours and broadly reflecting the periods in which activity on the Common is at its greatest.

Therefore, given the surrounding character of the area and the city's wider objectives of introducing a vibrant mix of leisure and tourism uses to the seafront that will attract people all year round, it is considered that the proposal would not have a significant adverse impact on the amenity of adjoining residents and any limited impact would be outweighed by the positive benefits of the proposal highlighted above. The hours of opening and timings of deliveries can be controlled through the inclusion of a suitably worded planning condition.

The proposal indicates that extraction and cooling equipment would be located at roof level. On the basis that the visual impact of this equipment is considered to be acceptable and there is a technical solution to ensure that this equipment would not have a significant adverse impact on the amenity of the occupiers of the adjoining properties (from noise, smells, fumes, odours) it is

considered that the finer technical specification of this equipment can be controlled through the inclusion of a suitably worded planning condition.

Highways/Parking Implications

Western Parade provides on road parking facilities for local residents and users of facilities on the Common and Castle Road. Parking within parallel parking bays to the eastern side of Western Parade and echelon parking bays to the western side of Western Parade are restricted to 3 hours for non-residents.

The views of the Highways Authority are set out in the consultations section of the report.

The proposal incorporates a refuse store to the south-east corner that has been designed into the fabric of the building, and is located in close proximity to the link path to allow ease of passage to the back edge of the carriageway. However, it is noted that there is no dropped kerb in close proximity to the application site and no breaks within the echelon parking spaces to the western side of Western Parade. This will prevent the refuse bins from being loaded directly from the building to the rear of any refuse collection vehicle.

Careful consideration has been given to the implications of such an arrangement and various alternative methods of collection have been considered. In order to avoid the loss of any parking spaces on Western Parade through an amendment to the Traffic Regulation Order, the applicant has agreed to produce a Servicing Management Plan (SMP). This would set out how refuse will be transferred from the building to an awaiting vehicle and goods could be delivered to the building safely and without affecting highway safety or parked vehicles. The provision of a SMP could be required through the inclusion of a suitably worded planning condition.

Whilst this is not considered to be an ideal solution, having regard to the wider benefits of the proposal highlighted above and the short periods in which refuse collection is likely to take place (approximately three times per week), it is considered that this would be the most appropriate solution resulting in the least disruption on the adjoining highway. It is also noted that other than during peak periods (weekends and school holidays) and evenings when resident parking is at its greatest demand, there are often spaces within the vicinity of the application site to allow passage from the pavement to the carriageway. The applicant has indicated that collections would not take place during the weekends where there is the greatest demand for parking.

Flood risk

The application site is shown to be located within the indicative flood plain (Flood Zones 2 & 3 of the Environment Agency's Flood Maps). However, the site is also located within the Southsea flood cell as identified in the Portsea Island Coastal Defence Strategy. This area is covered by the Interim Position between Portsmouth City Council and the Environment Agency for the provision of flood defences. This agreement assumes that the flood risk management infrastructure will be provided to at least the 1:200 year standard of protection by the time that it is required.

The proposal has been considered in line with paragraphs 100-108 of the NPPF which seeks to ensure that inappropriate development in areas at risk of flooding is avoided where possible by directing development away from areas at highest risk. Having regard to Policy PCS12 (Flood Risk) of the Portsmouth Plan, there is no requirement in this instance for the applicant to apply the sequential test, which would identify more suitable sites within areas of the city at lower risk of flooding. However, there is a requirement for the exception test, that seeks demonstration that a development will provide wider sustainable benefits that outweigh flood risk and that the development will be safe across its lifetime and will not increase flood risk elsewhere, to be applied.

In this respect, the wider sustainable community benefits of the proposal have been demonstrated and given the proposed 'less vulnerability use', it is considered that the proposal would not result in an increased risk of flooding at this or the adjoining sites.

The application is supported by a brief Flood Risk Assessment (FRA) that seeks to demonstrate that the development and its occupiers would be safe from flooding and could possibly reduce the risk of flooding at the site. With the inclusion of the flood resilient measures highlighted within the FRA, that can be controlled through the inclusion of a suitably worded planning condition, it is considered that the proposal is acceptable in flood risk terms.

Other matters including those raised within representations

The application is supported by an Arboricultural Impact Assessment and Method Statement (AIA) that assesses the quality of the adjoining trees and identifies their position, root protection areas and the location of the proposed protective fencing during any construction works. Unfortunately no further details have been provided to demonstrate how footings or footpaths could be constructed without damaging the health and stability (including root system) of the trees. However, following discussions with the City Council's Arboricultural Officer and further site investigation work, it has been established that there would be a technical solution to deliver the proposal without impacting the trees.

In the absence of further details, but in the knowledge that a technical solution is available, it is considered that further details can be required through a suitably worded planning condition to ensure that amenity value afforded by the trees is continued into the future.

A number of representations highlight that work has already commenced on the building. Whilst the applicant has been on site, it is considered that the works that are currently taking place (internal works, roof repairs test holes) do not require the express permission of the Local Planning Authority and have been carried out entirely at the applicant's own risk.

The City Development Team have been working with the applicant and the family of Rachel Lyons to design an alternative form of commemoration based on Rachel's artwork that could be incorporated into the proposal following the removal of the existing mural.

RECOMMENDATION Conditional Permission

Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: 01 Rev-B (received 15.04.2015), 03 Rev-A (received 29.03.2015), 04 Rev B (received 29.03.2015), 05 Rev-A (received 29.03.2015), Fascia details (received 29.04.2015), Extraction equipment section (received 15.04.2015) and Extraction overhead detail (received 15.04.2015).
- 3) Development shall not commence until there has been submitted to and approved in writing by the Local Planning Authority, or within such extended period as may be agreed with the Local Planning Authority:
 - a) A desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS10175:2011+A1:2013; and unless otherwise agreed in writing by the LPA,
 - b) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175:2011+A1:2013 - Investigation of potentially contaminated sites - Code of Practice; and, unless otherwise agreed in writing by the LPA,

c) A detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works.

4) The development hereby permitted shall not be occupied/brought into use until there has been submitted to and approved in writing by the Local Planning Authority verification by the competent person approved under the provisions of condition (3)c that any remediation scheme required and approved under the provisions of conditions (3)c has been implemented fully in accordance with the approved details (unless varied with the written agreement of the LPA in advance of implementation). Unless otherwise agreed in writing by the LPA such verification shall comprise (but not be limited to):

a) as built drawings of the implemented scheme

b) photographs of the remediation works in progress

c) certificates demonstrating that imported and/or material left in situ is free of contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under conditions (3)c.

5) Development shall not commence until details of all materials to be used in the construction of the areas of hard surface has been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved materials unless otherwise agreed in writing by the Local Planning Authority.

6) Notwithstanding the submitted details, no development shall commence on site until a scheme for the safeguarding of all trees on and immediately adjoining the application site from damage as a result of proposed works in accordance with British Standard:5837 (2012) has been submitted to and approved in writing by the Local Planning Authority. The works shall then be carried out in accordance with the approved scheme unless otherwise agreed in writing by the Local Planning Authority.

7) Prior to first use of the café/restaurant (Class C3) hereby permitted, equipment shall be installed to suppress and disperse any odours and fumes emitted from cooking operations arising from this use in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The equipment shall then be installed in accordance with the approved details and shall be permanently retained in that condition.

8) Prior to first use of the café/restaurant (Class C3) hereby permitted, the refuse store shall be provided in accordance with the approved drawings and permanently retained thereafter.

9) Prior to first use of the café/restaurant (Class C3) hereby permitted bicycle storage facilities shall be provided in accordance with the approved drawings (or any alternative facilities that may be submitted to and approved in writing by the Local Planning Authority). Those facilities shall thereafter be retained for the storage of bicycles at all times.

10) The café/restaurant (Class C3) hereby permitted shall, unless otherwise agreed in writing by the Local Planning Authority, incorporate the flood resilience measures set out within the submitted Flood Risk Assessment.

11) The café/restaurant (Class C3) premises hereby permitted shall remain closed to and vacated by members of the public outside of the hours of 8:00am-9:00pm on any day.

12) No deliveries shall be carried out outside of the hours of 8:00am and 9:00pm Monday to Saturday and 10:00am and 6:00pm on Sundays and any recognised Bank or public holidays.

13) Prior to first use of the café/restaurant Class A3) hereby permitted a servicing management plan shall be submitted to and approved in writing by the Local Planning Authority; and servicing

shall then be carried out in accordance with the approved management plan unless otherwise agreed in writing by the Local Planning Authority.

14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and or re-enacting that Order with or without modification) the application site shall not be used for any purpose other than as a café/restaurant within Class A3 without the prior written permission of the Local Planning Authority obtained through the submission of a formal planning application.

15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and or re-enacting that Order with or without modification) no enlargement, improvements or other alteration permitted by Part 7 shall be carried out without the prior written permission of the Local Planning Authority obtained through the submission of a formal planning application.

The reasons for the conditions are:

- 1) To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) In order to ensure that the site is free from prescribed contaminants in accordance with saved policy DC21 of the Portsmouth City Local Plan 2001-2011.
- 4) In order to ensure that the site is free from prescribed contaminants in accordance with saved policy DC21 of the Portsmouth City Local Plan 2001-2011.
- 5) In the interests of visual amenity having regard to the sites location within a conservation area in accordance with policy PCS23 of the Portsmouth Plan.
- 6) To ensure the trees are adequately protected from damage to health and stability throughout the construction period to ensure the continuity of their significant amenity value having regard to their position within the 'Seafront' Conservation Area in accordance with policies PCS13 and PCS23 of the Portsmouth Plan.
- 7) In the interests of residential amenity in accordance with policy PCS23 of the Portsmouth Plan.
- 8) To ensure that adequate visually acceptable provision is made for the storage of refuse and recyclable materials having regard to the sites location within a conservation area in accordance with policies PCS15 and PCS23 of the Portsmouth Plan.
- 9) To ensure that adequate provision is made for cyclists in accordance with policies PCS14 and PCS17 of the Portsmouth Plan.
- 10) To minimise the risk from flooding in accordance with policy PCS12 of the Portsmouth Plan.
- 11) In the interests of residential amenity in accordance with policy PCS23 of the Portsmouth Plan.
- 12) To protect the amenities of the occupiers of neighbouring residential properties in accordance with policy PCS23 of the Portsmouth Plan.
- 13) To accommodate practical and efficient delivery/collection of goods/supplies and refuse/recyclable materials in the interests of the safety and convenience of users of the

highway network in accordance with the aims and objectives of policies PCS17 and PCS23 and the NPPF.

14) In order that the Local Planning Authority may exercise further control of potential uses having regard to the specific judgement that has made in respect of the wider public benefits of the proposal which outweigh the presumption against the loss of protected open space; and to control any further alterations and additions having regard to the sites designation as protected open space and its location within the 'Seafront' Conservation Area in accordance with policies PCS13 and PCS23 of the Portsmouth Plan and the aims and objectives of the Seafront Masterplan SPD.

15) In order to control any further alterations and additions having regard to the sites designation as protected open space and its location within the 'Seafront' Conservation Area in accordance with policies PCS13 and PCS23 of the Portsmouth Plan.

PRO-ACTIVITY STATEMENT

In accordance with the National Planning Policy Framework the City Council has worked positively and pro-actively with the applicant through the application process, and with the submission of amendments an acceptable proposal has been achieved.

SMAT RELATING TO COMMITTEE REPORT - 29 APRIL 2015

Following publication of the Committee Report it should be noted that works have commenced on site. Therefore any planning permission would be granted in accordance with the provisions of Section 73 of the Town and Country Planning Act 1990, which makes provision for the retrospective granting of planning permission for development which has commenced and/or been completed.

In light of the commencement of development on site and further to comments received from consultees, a number of changes are proposed to the wording of the planning conditions. These changes are highlighted below and a new schedule of Planning Conditions as set out in an attached Appendix.

Land Contamination

In light of works commencing on site, the conditions relating to land contamination have been amended and combined into a single planning condition (Condition 2 of the attached schedule).

External materials

In light of works commencing on site, the wording of the materials condition has been amended to require that all works be carried out in accordance with the materials schedule submitted with the application. A separate condition is proposed to address materials relating to external areas of hard surface that are not yet specified (Conditions 3 & 4 of the attached schedule).

Arboricultural Management

It is noted that works relating to the excavation of footings and drainage have commenced, and that protective fencing has been installed around the trees in accordance with the submitted Arboricultural Impact Assessment and Method Statement. The excavations have been inspected by the City Council's Arboricultural Officer who confirms that no significant root material has been encountered. On the basis that no further excavations are required in close proximity to the existing trees, the wording of condition relating to the protection of the adjoining trees has been amended (Condition 5 of the attached schedule).

Environmental Health Comments

The applicant has attempted to assess odour issues arising using a risk assessment in the Defra document 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems' and, based on this assessment, propose an extraction system. Whilst the

Environmental Health Team (EHT) agree with elements of the assessment, having regard to the height of the application building and the height of neighbouring residential uses, it is considered that the proposed extraction system would have poor dispersion rates. Therefore, a planning condition relating to odour/ fume control is suggested in line with that previously suggested (Condition 6 of the attached schedule).

The proposal also includes the installation of equipment relating to extraction and air conditioning. However, insufficient information has been provided to the EHT to demonstrate that such equipment would not have a significant impact on the amenity of nearby residents. To address this issue an additional condition relating to noise levels generated by plant and equipment is proposed (Condition 7 of the attached schedule). Amended drawings showing the indicative position of extraction and air conditioning equipment has been provided and referred to within Condition 1 of the attached schedule.

The submitted drawings indicate the installation of a wood burner. However, it has been highlighted that the site is located within a Smoke Control Zone that prohibits smoke from a chimney unless an authorised fuel is being burnt or an exempt appliance is being installed and used. Given that there is a technical solution to allow authorised fuel to be burnt within an exempt burner, it is considered that this element of the proposal would be acceptable. As it would be an offence to burn unauthorised materials, controlled by legislation beyond the planning system (Clean Air Act 1993, s.20), it would not be appropriate to include a planning condition to control the material burnt or specification of the burner. However, an informative to this effect is proposed.

Scottish and Southern Energy

SSE confirm that no contractual arrangements have been agreed with the developer for the modification of the substation and planning permission should not be granted without the applicant demonstrating how their equipment could be accommodated within the proposal. The applicant has confirmed that discussions are ongoing with SSE and permission has been granted to access the site and carry out physical alterations to the building. The proposal does not affect any part of the building of which SSE have any interest, and the existing sub-station would remain unchanged. Therefore, it is considered that any planning permission should not be withheld on this issue.

Representations

In addition to the 5 letters of representation previously reported, 18 further letters of representation have been received in respect of the proposal.

In total 18 letters of representation have been received from local residents and St. Jude Ward Member Councillor Michael Andrewes in objection to the proposal. A petition containing the names of 17 individuals, including some who have offered individual comments, has also been received. The objections can be summarised as follows: (a) Loss of protected open space; (b) Increase in noise and disturbance; (c) Parking disruption; (d) Smells, odours and noise from cooking processes and extraction equipment;

(e) Design would not deliver 'excellent architectural quality; (f) No need for an additional café/restaurant in the area given the existing uses in Castle Road; (g) Increase in litter due to the lack of refuse bins on the Common; (h) Increase in anti-social behaviour from alcohol consumption on the premises; (i) Benefits of the proposal do not outweigh the harm; (j) The proposal would remove changing facilities within the open colonnade; (k) Work has already commenced (l) Inadequate servicing and delivery provisions; (m) waste water flooding; and (n) Loss of registered Common Land.

In total 9 letters of support have been received from local residents and on behalf of the Castle Road Area Association. Their comments can be summarised as follows: (a) This part of the Common has little offer in the way of refreshments; (b) The building in its current form is attraction anti-social behaviour and illegal activities; (c) Site used as a rubbish tip; (d) The proposal would improve the appearance of the building and lift the surrounding area; (e) Would benefit Castle Road; (f) Not all customers would drive to the site; and (g) The proposal would not significantly increase noise beyond levels typically experienced on a busy day.

In respect of point (m), having regard to the scale of the café/restaurant and the historic use of the site as public conveniences, it is considered that the proposal would not place significant additional pressure on the sewage network. The applicant would have to agree a connection with the relevant authority that will ensure that there is sufficient capacity within the network. In respect of point (n) the application site is not registered as Common Land. There is no registered Common in the administrative area of the City Council. All other issues raised within representations have been addressed within the Committee Report or the Supplementary Matters update.

SMAT APPENDIX

Conditions

1) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: 01 Rev-B (received 15.04.2015), 03 Rev-C (received 28.04.2015), 04 Rev B (received 28.04.2015), 05 Rev-A (received 29.03.2015), Fascia details (received 29.04.2015), Extraction equipment section (received 15.04.2015) and Extraction overhead detail (received 15.04.2015).

2) The development hereby permitted shall not be occupied/brought into use until there has been submitted to and approved in writing by the Local Planning:

a) A combined desk study and site investigation report documenting the ground conditions of the site including chemical testing as identified as appropriate by the desk study in accordance with BS10175:2011+A1:2013 - Investigation of potentially contaminated sites - Code of Practice; the report should state whether or not the site is suitable for use in its current state or if remediation is required.

and, unless otherwise agreed in writing by the LPA,

b) A remedial scheme report detailing measures to be undertaken to avoid risk from contaminants under the proposed end-use. A competent person to oversee the implementation of the works shall be nominated in the report.

and, unless otherwise agreed in writing by the LPA,

c) A verification report by the competent person approved under the provisions of condition (3)b that the remediation scheme approved under the provisions of conditions (3)b has been implemented fully in accordance with the approved details (unless varied with the written agreement of the LPA in advance of implementation).

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under conditions (3)b.

3) The development hereby permitted shall be carried out in full accordance with the schedule of materials submitted with the application unless otherwise agreed in writing with the Local Planning Authority.

4) Notwithstanding the submitted details, construction of the external areas of hard surface shall not be carried out until details of materials and method of construction have been submitted to and approved in writing by the Local Planning Authority.

5) The development hereby permitted shall be carried out in full accordance with the approved Arboricultural Impact Assessment, Method Statement and supporting documents (including details within email/attachment from Tom Ponsford dated 09.04.2015 and letter from Mr B. Harverson dated 21.04.2015) which detail comprehensive instructions and plans for conduct of the development in accordance with the recommendations of British Standard:5837 (2012) for safeguarding the existing tree stock unless otherwise agreed in writing with the Local Planning Authority.

6) Prior to first use of the café/restaurant (Class C3) hereby permitted, equipment shall be installed to suppress and disperse any odours and fumes emitted from cooking operations arising from this use in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The equipment shall then be installed in accordance with the approved details and shall be permanently retained in that condition.

7) Prior to the installation of any fixed plant or equipment, a scheme for protecting residential premises from noise generated by the plant or equipment shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that the combined noise level from all such plant (expressed as an LAeq,5minute) will be 5dBA below the measured ambient noise levels (expressed as an LAeq over one hour) representative of the quietest period of a typical week. The assessments shall be made at 1 metre from the façade of the nearest residential premises. The equipment shall then be installed in accordance with the approved details and shall be permanently retained in that condition unless otherwise agreed in writing with the Local Planning Authority.

8) Prior to first use of the café/restaurant (Class C3) hereby permitted, the refuse store shall be provided in accordance with the approved drawings and permanently retained thereafter.

9) Prior to first use of the café/restaurant (Class C3) hereby permitted bicycle storage facilities shall be provided in accordance with the approved drawings (or any alternative facilities that may be submitted to and approved in writing by the Local Planning Authority). Those facilities shall thereafter be retained for the storage of bicycles at all times.

10) The café/restaurant (Class C3) hereby permitted shall, unless otherwise agreed in writing by the Local Planning Authority, incorporate the flood resilience measures set out within the submitted Flood Risk Assessment.

11) The café/restaurant (Class C3) premises hereby permitted shall remain closed to and vacated by members of the public outside of the hours of 8:00am and 9:00pm on any day.

12) No deliveries shall be carried out outside of the hours of 8:00am and 9:00pm Monday to Saturday and 10:00am and 6:00pm on Sundays and any recognised Bank or public holidays.

13) Prior to first use of the café/restaurant Class A3) hereby permitted a servicing management plan shall be submitted to and approved in writing by the Local Planning Authority; and servicing shall then be carried out in accordance with the approved management plan unless otherwise agreed in writing by the Local Planning Authority.

14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and or re-enacting that Order with or without modification) the application site shall not be used for any purpose other than as a café/restaurant within Class A3 without the prior written permission of the Local Planning Authority obtained through the submission of a formal planning application.

15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and or re-enacting that Order with or without modification) no enlargement, improvements or other alteration permitted by Part 7 shall be carried out without the prior written permission of the Local Planning Authority obtained through the submission of a formal planning application.

The reasons for the conditions are:

1) To ensure the development is implemented in accordance with the permission granted.

2) In order to ensure that the site is free from prescribed contaminants in accordance with saved policy DC21 of the Portsmouth City Local Plan 2001-2011.

- 3) In the interests of visual amenity having regard to the sites location within a conservation area in accordance with policy PCS23 of the Portsmouth Plan.
 - 4) In the interests of visual amenity having regard to the sites location within a conservation area and to ensure that the adjoining trees are adequately protected from damage to health and stability in accordance with policies PCS13 and PCS23 of the Portsmouth Plan.
 - 5) To ensure the trees are adequately protected from damage to health and stability throughout the construction period to ensure the continuity of their significant amenity value having regard to their position within the 'Seafront' Conservation Area in accordance with policies PCS13 and PCS23 of the Portsmouth Plan.
 - 6) In the interests of residential amenity in accordance with policy PCS23 of the Portsmouth Plan.
 - 7) In the interests of residential amenity in accordance with policy PCS23 of the Portsmouth Plan.
 - 8) To ensure that adequate visually acceptable provision is made for the storage of refuse and recyclable materials having regard to the sites location within a conservation area in accordance with policies PCS15 and PCS23 of the Portsmouth Plan.
 - 9) To ensure that adequate provision is made for cyclists in accordance with policies PCS14 and PCS17 of the Portsmouth Plan.
 - 10) To minimise the risk from flooding in accordance with policy PCS12 of the Portsmouth Plan.
 - 11) In the interests of residential amenity in accordance with policy PCS23 of the Portsmouth Plan.
 - 12) To protect the amenities of the occupiers of neighbouring residential properties in accordance with policy PCS23 of the Portsmouth Plan.
 - 13) To accommodate practical and efficient delivery/collection of goods/supplies and refuse/recyclable materials in the interests of the safety and convenience of users of the highway network in accordance with the aims and objectives of policies PCS17 and PCS23 and the NPPF.
 - 14) In order that the Local Planning Authority may exercise further control of potential uses having regard to the specific judgement that has made in respect of the wider public benefits of the proposal which outweigh the presumption against the loss of protected open space; and to control any further alterations and additions having regard to the sites designation as protected open space and its location within the 'Seafront' Conservation Area in accordance with policies PCS13 and PCS23 of the Portsmouth Plan and the aims and objectives of the Seafront Masterplan SPD.
 - 15) In order to control any further alterations and additions having regard to the sites designation as protected open space and its location within the 'Seafront' Conservation Area in accordance with policies PCS13 and PCS23 of the Portsmouth Plan.
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LAND SURROUNDING WOODLANDS WALK ST JAMES HOSPITAL SOUTHSEA PO4 8GB

WITHIN TREE PRESERVATION ORDER 177 - FELL ELM (ULMUS) (T188); FELL PORTUGUESE LAUREL (PRUNUS LUSITANICA) (T190) REMOVAL OF EPICORMIC GROWTH UNDER 4METRES TO LIME (TILIA X EUROPAEA) (T148A); CROWN LIFT BRANCHES TO 7METRES TO PROPERTY SIDE OF NORWAY MAPLE (ACER PLATANOIDES) (T114); FELL TWO SILVER BIRCHES (BETULA PENDULA) (T1 & T2); REMOVAL OF BASAL EPICORMIC GROWTH ON SILVER BIRCHES (BETULA PENDULA) (T3, T4 & T5)

Application Submitted By:

RSK

FAO Mr Mark Strachan

On behalf of:

HCA

FAO Mr Howard Bassant

RDD: 11th February 2016**LDD:** 6th June 2016**SUMMARY OF MAIN ISSUES**

The main issues to be considered in the determination of this application are:

- i) whether the proposed works to the protected trees are acceptable;
- ii) whether the proposed works would impact on local amenity; and
- iii) whether the proposed works would impact on the setting of the Listed Building.

The Site

This application relates to the part of the former grounds of St James Hospital which cover an extensive area of land between Locksway Road to the south, Mayles Road to the west, the University playing fields to the east and an area of more recent housing development served by Edenbridge Road to the north. The wider site includes the original hospital building situated in the north-west quarter, a number of satellite buildings within the north-east quarter, open space in the south-west quarter and residential development and the Harbour school site in the south-east quarter. The main hospital building is a Grade 2 Listed Building of high architectural merit, with a Grade 2 Listed Chapel building to the east. Distributed throughout the site are many trees, the majority of which are protected under Tree Preservation Order 177 and contribute to a parkland setting. This application has been submitted by the Homes and Communities Agency who now are the owners of part of the former hospital grounds.

Proposal

The applicant seeks consent for the removal of four trees; two Silver Birch Trees (T1 & T2) situated just North of Locksway Road on Woodland Walk, a Portuguese Laurel (T190) and an Elm tree (T188) located to the west of the private chapel within the Hospital grounds. Consent is also sought for works to five other trees, the removal of basal epicormic growth to three Silver Birch trees (T3, T4, T5) which are located just north of Locksway Road, a crown lift of branches to 7 metres to property side of a Norway Maple (T114) located to the south of the "Beeches" building and the removal of epicormic growth under 4 metres to a Lime (T148A) situated directly adjacent to the private chapel.

Relevant planning history

Whilst there is an extensive history of works to protected trees within the site the most recent proposal relates to the felling of four trees and tree surgery works to another 8 trees within the boundary of St James Hospital which was granted conditional consent on 9 December 2015.

POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include:
PCS13 (A Greener Portsmouth)

CONSULTATIONS

Leisure/Arb Officer

Observations

Many of the Birch (*Betula* sp) across the site are in decline - Birch is not a long lived species, approx. 80 years being the average in southern England - this subject to the following biotic and abiotic influences:

- o The availability of water
- o Sun
- o Temperature
- o The presence or absence of wind
- o Fires
- o Pests
- o Diseases & disorders
- o Additionally human activity can dramatically extend or shorten their lifespan.

T1 exhibits die back throughout the upper crown and a lack of vigour, often a symptom of dysfunction at the roots.

T2 is infested with the fungi *Taphrina betulina* or witches' broom which creates a disease or deformity where the natural structure of the plant is changed. A dense mass of shoots grows from a single point, with the resulting structure resembling a broom or a bird's nest. These are evident throughout the crown of the tree. *Taphrina* has been associated with a significant reduction in height growth and poorer developmental tendency, vigour, and stem quality in other Birch species.

T3,4,5 are in better condition than T1 and T2 - the removal of basal and epicormic shoots is good husbandry and allows other landscape maintenance to be undertaken such as grass mowing around the base of the tree.

T114 a large vigorous example of *Acer platanoides* is located close to the site perimeter and extends across the boundary toward the rear of the adjacent properties on Cheriton Road. Extending across the gardens there exist beneath the canopy several large shed type garden structures, the proposed crown lift mitigates any potential liability for nuisance. Dead wood removal does not require planning consent.

T148 a mature and vigorous example of *Tilia x europea*, the removal of basal shoots is good husbandry and allows other landscape maintenance to be undertaken, in this case additionally it will remove partial obstruction of an access.

T188 *Ulmus* sp. is dead and does not require planning consent for removal as DDD.

T190 a group of *Prunus lusitanica* one of which has failed at two points but remains attached to the adjacent stem and supported through a naturally occurring graft union at approx 2.5m. Removal of the failed stem is recommended to relieve the weight from the graft union and mitigate further failure.

Recommendations

The application be granted.

Replacement planting is to be undertaken in respect of those trees to be felled.

Recommended species to be native species in keeping with other plantings onsite.

Replacement plantings are to be at the minimum nursery specification "Selected Standard".

REPRESENTATIONS

At the time of preparing this report sixty three representations have been received objecting to the felling of any trees on the grounds that the trees (a) improve air quality, (b) provide a habitat for birds and wildlife, (c) their loss increases the risk of flooding, (d) they provide for the general wellbeing of residents who enjoy the peace and tranquillity of the hospital grounds, and (e) the loss of trees does not fit in with the wishes of Milton Residents to preserve the area.

COMMENT

The main issues are the effects of the proposed felling and other tree surgery on the visual amenity of the area and setting of the Listed Building, and whether there are sufficient arboricultural grounds for the works as proposed.

The grounds of the hospital cover an extensive area of level topography, surrounded by residential development, within which the public have been permitted access. Viewed from the public realm and the rear of houses that abut the site, the tree cover within the grounds give the hospital its characteristic appearance of a parkland setting and make a valuable contribution to the amenity of the area. The comments of the arboricultural officer are noted in that historically the former owner of the site has not pro-actively maintained the trees.

Of the several hundreds of trees within the grounds the loss of a small number would not be considered to have a significant impact overall, and their replacement with new trees would in the long term maintain the parkland setting characteristic of the site. The four trees to be felled are dispersed throughout the southern and western half of the grounds. The removal of T1&T2 (Silver Birch) & T190 (Portuguese Laurel) would represent the most significant loss of visual amenity. However, it is considered that their general condition and reasons for felling would, together with a requirement for replacement, outweigh the loss of visual amenity that would result from the removal of these mature trees. The remaining tree to be felled, T188 (Elm) is situated in an area that is densely populated by other species and as a result would have less of an impact on amenity. In each case removal is considered to be justified subject to replacement planting.

The scope of the proposed tree surgery to the other five trees is considered to be proportionate with sufficient justification to warrant support. The proposed works are in the arboricultural interests of the trees and are not considered to significantly affect visual amenity.

In relation to the main hospital buildings two of the trees to be removed are in close proximity (T190 & T188). However, having regard to the condition of those trees together with a requirement for replanting to maintain tree cover, it is considered that their removal would preserve the setting of the Listed Building.

It is therefore concluded that the proposed felling and other proposed tree surgery is in the proper arboricultural interests of the trees and that the appreciation of the visual amenity of the site would not be detrimentally harmed and setting of the heritage asset preserved.

RECOMMENDATION Conditional Consent

Conditions

- 1) The works hereby approved shall be carried out within 2 years of the date of this consent.
- 2) The Silver Birch (T1) shall be felled to ground level and the stump removed.
- 3) A replacement *Tilia cordata*, *Tilia platyphyllos* or *Ulmus*, (the size to be nursery specification, heavy standard as specified in British Standard 3936 Part 1 specification for nursery stock), shall be planted in the same position as the tree to be felled within 1 year of the removal of the Silver Birch (T1), or such other species, size, position or time period as may be agreed in writing by the Local Planning Authority.
- 4) The Silver Birch (T2) shall be felled to ground level and the stump removed.
- 5) A replacement *Tilia cordata*, *Tilia platyphyllos* or *Ulmus*, (the size to be nursery specification, heavy standard as specified in British Standard 3936 Part 1 specification for nursery stock), shall be planted in the same position as the tree to be felled within 1 year of the removal of the Silver Birch (T2), or such other species, size, position or time period as may be agreed in writing by the Local Planning Authority.
- 6) The Elm (T188) shall be felled to ground level and the stump removed.
- 7) A replacement *Tilia cordata*, *Tilia platyphyllos* or *Ulmus*, (the size to be nursery specification, heavy standard as specified in British Standard 3936 Part 1 specification for nursery stock), shall be planted in the same position as the tree to be felled within 1 year of the removal of the Elm (T188), or such other species, size, position or time period as may be agreed in writing by the Local Planning Authority.
- 8) The Portugese Laurel (T190) shall be felled to ground level and the stump removed.
- 9) A replacement *Tilia cordata*, *Tilia platyphyllos* or *Ulmus*, (the size to be nursery specification, heavy standard as specified in British Standard 3936 Part 1 specification for nursery stock), shall be planted in the same position as the tree to be felled within 1 year of the removal of the Portugese Laurel (T190), or such other species, size, position or time period as may be agreed in writing by the Local Planning Authority.
- 10) Notwithstanding the particulars of your application no works whatsoever shall be carried out to tree T148a (Lime) than to remove epicormic growth under 4m.
- 11) Notwithstanding the particulars of your application no works whatsoever shall be carried out to tree T114 (Norway Maple) than to crown lift branches to 7m on the side facing adjoining properties.
- 12) Notwithstanding the particulars of your application no works whatsoever shall be carried out to trees T3, T4 & T5 (Silver Birches) than to remove basal epicormic growth.

The reasons for the conditions are:

- 1) To comply with Regulation 17 of the Town and Country Planning (Tree Preservation)(England) Regulations 2012.
- 2) To ensure the amenity afforded by the tree is continued into the future in accordance with policy PCS13 of the Portsmouth Plan.
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- 12) To ensure the amenity afforded by the tree is continued into the future in accordance with policy PCS13 of the Portsmouth Plan.

1) PRO-ACTIVITY STATEMENT

Notwithstanding that the City Council seeks to work positively and pro-actively with the applicant through the application process in accordance with the National Planning Policy Framework, in this instance the proposal was considered acceptable and did not therefore require any further engagement with the applicant.

LAND ADJACENT TO LANGSTONE CAMPUS PLAYING FIELD WEST OF FURZE LANE SOUTHSEA**WITHIN TREE PRESERVATION ORDER 215: FELL LOMBARDY POPLAR (POPULUS NIGRA ITALICA) (T11); CROWN AND HEIGHT REDUCTION TO LEAVE HEIGHT OF 15METRES OF LOMBARDY POPLAR (POPULUS NIGRA ITALICA) (T20)****Application Submitted By:**

The Landscape Group
FAO Maggie Saunders

On behalf of:

University Of Portsmouth
FAO Mr Russell Bissett

RDD: 12th April 2016

LDD: 24th June 2016

SUMMARY OF MAIN ISSUES

The main issues to be considered in the determination of this application are:

- i) whether the proposed works to the protected trees are acceptable in arboricultural terms; and
- ii) whether the proposed works would impact upon the visual amenity of the area;

The Site

This application relates to two Lombardy Poplars (T11 & T20) situated on the boundary of the University of Portsmouth playing fields at Furze Lane, Milton. The trees are protected by Tree Preservation Order No.215 and form part of a row of Lombardy Poplars (also protected) that stretch down the eastern boundary of the site. The area has a mixed character with university uses to the east and west and residential uses to the south within small blocks of flats and short terraces.

The Proposal

The applicant has applied to:

- (T11) - Fell
- (T20) - Crown and height reduction to leave a height of 15 metres.

Relevant Planning History

Conditional consent was granted in 2013 (ref. 13/00696/TPO) for: 'Within TPO No.215 - Norway Maple (T23) remove hanger and stub in mid crown'.

Conditional consent was granted in 2011 (ref.11/01042/TPO) for: 'Poplar (T3, T4 and T7) fell to ground level and replace with Poplar; and Poplar (T1) reduce over extended branch growth over neighbouring property by 20% within Tree Preservation Order 215'.

Conditional consent was granted in 2004 (ref. A*35752/AE) for: 'Topping and lopping of 20 Poplars (T1-T20 inclusive) within TPO No.215'.

POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include: PCS13 (A Greener Portsmouth),

In addition to the aims and objectives of the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS13 (A Greener Portsmouth).

CONSULTATIONS

Leisure/Arb Officer

A site visit was undertaken on 06 June 2016. The weather conditions were dry and sunny with a south westerly breeze.

Observations - The Poplars which adjoin Furze Lane are contemporary with many of the other Poplars in this area of Milton which once surrounded the St James Hospital site. A short lived species, these trees are now reaching the end of their lives, in recent months at least two have failed through decay and collapsed, one on the campus and one within the hospital grounds. One other within the hospital grounds has recently been identified as a failure risk and marked for removal.

The evidence presented in the Picus Sonic Tomograph Report dated December 2015 produced by The Landscape Group is accepted and agreed.

The report suggests T11 and T20 have begun to decline and left unmanaged pose a risk of failure.

The investigation was precipitated by the failure of TPO215 T2 on 17 November 2015, mentioned above which resulted in the crushing of a bus shelter and temporary closure of a bus lane in November 2015.

Both trees appear vigorous and healthy, this is not necessarily an indicator of the structural integrity of a tree.

A core sample was extracted from T11 using an increment borer in order to assess the extent of decay at approx. 600mm above ground level on the south side of the tree directly below a visible area of decay which includes the presence of immature fungal fruiting bodies - possibly a Ganoderma species.

The Ganoderma's are a species of wood decay fungi which attacks heartwood in the butt and stem of a tree, digesting Lignin ultimately resulting in failure, often in strong winds when the loss of structural integrity allows the tree to be wind thrown.

An incomplete core of approx. 50mm length was extracted which exhibited the presence of dysfunctional material - the cause of the core to be incomplete. A strong odour of mushrooms was noted, an indicator of the presence of fungal decay.

Following extraction of the core a stainless steel probe was inserted into butt of the tree. The probe is calibrated at 50mm intervals and penetrated to a depth of approx. 270mm with no resistance. In my opinion this supports the findings of the Picus Tomograph and confirms the presence of extensive decay in the butt of T11.

In respect of T20 the use of a rubber mallet in "sounding" the integrity of the wood is an accepted and recognised arboricultural management practice.

The same test was undertaken on 06 June and similar conclusions drawn from the results. Decay is present in the lower stem of T20. In this instance a core sample was not taken in order to mitigate any risk of cross contamination between the two trees.

Reduction of the crown by 30% to approximately 15m will reduce the sail area and mitigate risk of wind throw, the tree being located in an exposed position.

The heavy reduction should allow the continued retention of T20 for several more years to come.

Recommendations - The application be granted.

Replacement planting is to be undertaken in respect of T11, one of the following species is to be used:

Carpinus betulus 'Fastigiata'

Tilia platyphyllos 'Fastigiata'

REPRESENTATIONS

At the time of writing, four letters of representation had been received from local residents objecting on the following grounds: a) The trees are of historical importance and are included within a famous painting; (b) Impact on visual amenity; and (c) the tree (T11) appears to be healthy.

This application has been brought to the Planning Committee for determination at the request of Milton Ward Member Councillor Vernon-Jackson.

COMMENT

The main issues to consider within this application are the effects of the proposed works in respect of the visual amenity of the area and whether there are sufficient arboricultural grounds for the works as proposed.

The two Lombardy Poplars the subject of this application were given formal protection on 21st August 2001 as part of Tree Preservation Order No.215 (Locksway Road/Furze Lane, Milton (Order 03/01)). The trees were protected in the interests of the visual amenity of the area.

T11 is situated on the eastern boundary of the University of Portsmouth playing fields approximately half way between Moorings Way to the north and Locksway Road to the south. The tree is situated within a row of other Lombardy Poplars which, in combination with a large hedge form the boundary with Furze Lane. The trees, both individually and as a group, make a significant contribution to the character of the area.

T20 is situated directly to the corner of Locksway Road and Furze Lane, again within the grounds of the University of Portsmouth playing fields. As a result of its scale and prominent corner location, the tree makes a significant contribution to the street scene and the visual amenity of the area.

The application is supported by a Picus Sonic Tomograph Report (dated December 2015 produced by The Landscape Group) which was conducted as part of an investigation into the health of 14 trees located at the site. This was prompted by the failure of a similar Lombardy Poplar (T2 of TPO No.215) on 17 November 2015 which crushed a bus shelter a caused the temporary closure of the bus lane on Furze Lane. The report concludes that whilst all of the trees at the site (including T11 & T20) were in a reasonable condition, trees T11 and T20 have begun to decline, and left unmanaged pose a risk of failure.

This report has been considered by the City Council's Arboricultural Officer who has also undertaken a separate site visit carried out his own investigation into the health of T11 and T20. In light of the findings detailed above (Consultations section), the evidence presented by the applicant within the Picus Sonic Tomograph Report is accepted and agreed.

In addition, it is noted that Lombardy Poplars are a short lived species and many of those planted in and around the St James Hospital site are reaching the end of their lives. Whilst both trees the subject of this application appear to be vigorous and healthy, this should not be seen as an indicator of their structural integrity.

Whilst the loss of any tree is unfortunate, the extent of decay within T11 is considered to such that its removal would be in the interests of good arboricultural management. This will obviously have an impact on the visual amenity of the area. However, with the inclusion of a suitably worded planning condition requiring the planting of a replacement tree ('Heavy Standard' as specified in British Standard 3936-1:1992 Nursery Stock Part 1: Specification for trees and shrubs) as mitigation, the amenity value currently afforded by T11 would continue into the future.

It should be noted that there are a number of exemptions from the normal requirement to obtain the Local Planning Authority's consent for cutting down or carrying out work on protected trees. Where a tree 'presents an immediate risk of serious harm and work is urgently needed to remove that risk' (paragraph 081 of the National Planning Practice Guidance), as is the case of T11, the consent of the LPA would not be required. There would however, still be an obligation on the landowner to plant a replacement tree of an appropriate size and species.

The City Council's Arboricultural Officer highlights that the extent of decay within T20 is not as severe as T11, and the proposed works to reduce the size and height of the canopy will reduce the sail area and mitigate risk of wind throw. Whilst the proposal represents a relatively heavy reduction, the extent of the work is considered necessary to minimise any associated risk of failure and ensure that the amenity value afforded by the tree is continued for several more years.

RECOMMENDATION Conditional Consent

Conditions

- 1) The works hereby approved shall be carried out within 2 years of the date of this consent.
- 2) The Lombardy Poplar (*Populus nigra* 'Italica') (T11) shall be felled to ground level and the stump removed.
- 3) A replacement *Carpinus betulus* 'Fastigiata' Hornbeam or *Tilia platyphyllos* 'Streetwise' (Broad-leaved Lime), the size to be a minimum of 'Heavy Standard' as specified in British Standard 3936-1:1992 Nursery Stock Part 1: Specification for trees and shrubs), shall be planted in the same position as the tree to be felled within 1 year of the removal of the Lombardy Poplar (*Populus nigra* 'Italica') (T11), or such other species, size, position or time period as may otherwise be agreed in writing by the Local Planning Authority.
- 4) Notwithstanding the particulars of the application, no works whatsoever shall be carried out to the Lombardy Poplar (T20) other than a crown and height reduction to leave a height of 15 metres.
- 5) All work shall be carried out in accordance with BS 3998: 2010. (Tree work recommendations).

The reasons for the conditions are:

- 1) To comply with Regulation 17 of the Town and Country Planning (Tree Preservation)(England) Regulations 2012.
- 2) In the interests of good arboricultural management in accordance with Policy PCS13 of the Portsmouth Plan.
- 3) To ensure the amenity afforded by the tree is continued into the future in accordance with policy PCS13 of the Portsmouth Plan.
- 4) To ensure the amenity afforded by the tree is continued into the future in accordance with policy PCS13 of the Portsmouth Plan.
- 5) To ensure the amenity afforded by the tree is continued into the future in accordance with policy PCS13 of the Portsmouth Plan.

1) PRO-ACTIVITY STATEMENT

Notwithstanding that the City Council seeks to work positively and pro-actively with the applicant through the application process in accordance with the National Planning Policy Framework, in this instance the proposal was considered acceptable and did not therefore require any further engagement with the applicant.

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16/00576/FUL

WARD:ST THOMAS

43 RIVERS STREET SOUTHSEA PO5 4PL

CHANGE OF USE FROM DWELLING HOUSE (CLASS C3) TO PURPOSES FALLING WITHIN CLASS C4 (HOUSE IN MULTIPLE OCCUPATION) OR CLASS C3 (DWELLING HOUSE)

Application Submitted By:

Jason Foster

On behalf of:

Jason Foster

RDD: 7th April 2016

LDD: 23rd June 2016

SUMMARY OF MAIN ISSUES

The main issues to be considered in the determination of this application are the appropriateness of such a use in the context of the balance of uses in the surrounding area and whether it would have a detrimental impact on the living conditions of adjoining and nearby residents. Other considerations are whether the proposal complies with policy requirements in respect of car and cycle parking, and the storage of refuse and recyclable materials.

The site

This application relates to a two-storey end of terrace dwelling located within a block of four similar properties to the western end of River's Street. The dwelling fronts directly onto the back edge of the footway and comprises two reception rooms and a kitchen at ground floor level with two bedrooms at first floor level. The surrounding area is characterised by a range of building types include bungalows, 3/4-storey blocks of flats/maisonettes and an 18-storey residential tower block. A large community building stretches across Winston Churchill Avenue just to the west of the application site.

The Proposal

Planning permission is sought for the use of the property for purposes falling within Class C3 (dwellinghouse) or within Class C4 (House in Multiple Occupation). The interchange between Class C3 and Class C4 would normally be permitted development within the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). However, on 1st November 2011 a city wide Article 4 Direction relating to HMOs came into force removing this permitted development right. As such, planning permission is now required in order to interchange between the uses of a Class C3 dwellinghouse and a Class C4 HMO where between three and six unrelated people share at least a kitchen and/or a bathroom. The lawful use of the property is as a dwellinghouse within Class C3 although it has been suggested by the applicant that it has been used as a Class C4 HMO in the past.

Planning History

There is no planning history for this site.

POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include: PCS17 (Transport), PCS20 (Houses in Multiple Occupation (HMOs)), PCS23 (Design and Conservation),

In addition to the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS17 (Transport), PCS20 (Houses in Multiple Occupation (HMOs)) and PCS23 (Design and Conservation). The Houses in Multiple Occupation (HMOs) Supplementary Planning Document would also be material to this application.

CONSULTATIONS

None.

REPRESENTATIONS

At the time of writing, two letters of representation had been received from local residents. Their objections can be summarised as follows: (a) Too many HMOs within the surrounding area resulting in an imbalance of such uses; (b) 'Count data' skewed by the inclusion of large blocks of flats; (c) Increased noise and disturbance (d) Anti-social behaviour; and (e) Increase in rubbish and littering.

The application is referred to the Planning Committee as a result of a deputation request from the occupier of the adjoining property (No.45 River's Street).

COMMENT

The main issues to be considered in the determination of this application are whether the proposal is acceptable in principle and whether it would have a detrimental impact on the living conditions of adjoining and nearby residents. Other considerations are whether the proposal complies with policy requirements in respect of car and cycle parking, and refuse and recyclable materials storage.

Permission is sought for the use of the property for purposes falling within Class C3 (dwellinghouse) or Class C4 (house in multiple occupation) (HMO), to enable the applicant the flexibility to change freely between the two use classes. The property currently has a lawful use as a dwellinghouse (Class C3).

Policy PCS20 of the Portsmouth Plan states that applications for change of use to a HMO will only be permitted where the community is not already imbalanced by a concentration of such uses or where the development would not create an imbalance. The adopted Houses in Multiple Occupation SPD (HMO SPD) sets out how Policy PCS20 will be implemented and details how the City Council will apply this policy to all planning applications for HMO uses. In identifying the area surrounding the application site paragraph 1.15 viii of the SPD states: 'Where the 50 metre radius captures any part of a building containing residential flats, then all properties inside of this building will be included in the 'count'.

On that basis, it has been established that 6 of the 193 residential properties within a 50 metre radius were known to be in use as HMOs, which equates to 3.11%. Should planning permission be granted for this application the proportion of HMOs within the locality would increase to 3.63% well below the 10% threshold set out in the SPD. Therefore, based on the methodology set out within the HMO SPD, it is considered that the community is not already imbalanced by a concentration of HMO uses and the application would not result in an imbalance of such uses.

It is accepted that the inclusion of Edgbaston House (136 properties) and 1-29 Sedgley Close (29 properties) within the 'count data' has reduced the overall percentage figure for this particular locality which would result in a higher concentration of HMOs within the small group of properties around the application dwelling. However, the City Council has explored all feasible options for defining an 'area surrounding an application property' that is clear and straightforward for applicants to understand and replicate. This resulted in the adoption of a simple 'fixed' 50m radius which is not intended to capture 'the community' but is intended to be indicative of the balance of residential uses within a given area.

It is acknowledged that there will be certain situations where this methodology, and all of the alternatives explored, could result in higher concentrations of HMOs in any given area. It is however, considered that the adopted policy and calculation methodology set out in the SPD is achieving its wider aims and objectives of maintaining mixed and balanced communities. As such it is considered that the policy and the calculation methodology need to be applied consistently to all planning applications. This would include this particular application where the 50m radius dissects two large blocks of flats.

Representations refer to issues associated with existing HMOs in the area and highlight the potential increase in noise, disturbance and anti-social behaviour resulting from the use of the application dwelling as a HMO. It is however, generally considered that the level of activity associated with the use of any individual property as a Class C4 HMO is unlikely to be materially different to the use of a single household as a Class C3 dwellinghouse occupied by either a single family or other groups living as a single household. Indeed this issue has been considered in recent appeal decisions where Inspectors have taken the view that properties used as HMOs within Class C4 would be occupied by similar numbers of occupiers to a C3 use. In dismissing an appeal at 82 Margate Road (APP/Z1775/A/12/2180908 - 7th January 2013) the Inspector opined that "The level of activity generated by a large family would be comparable to that arising from the current proposal. Therefore, concerns over noise and disturbance would

not justify rejection of the appeal. Other legislation is available to address concerns relating to anti-social behaviour".

It should also be noted that this application must consider the proposed use and not the future user/s, and it cannot be assumed that future occupiers would exacerbate the existing issues highlighted by neighbours. Stepping away from the planning merits of the proposal, the application property is located in an area of the city (PO1, PO4 & PO5 postcode areas) where there would be a requirement for the applicant to seek an 'additional licence' from the City Council's Private Sector Housing Team. The 'additional licensing' would ensure that the property would meet specific standards in respect of the number of occupiers, living conditions (toilet, washing and kitchen facilities), management of water, gas and electricity supplies and fire risk management, but would also place an obligation on the landlord to monitor/control the behaviour of future tenants.

Therefore, in light of the above and notwithstanding the increased concentration of HMOs within this small group of dwellings, it is considered that the proposed use of this property within Class C4 would not result in significant additional harm to the residential amenity of nearby residents and an objection on the grounds of increased noise and disturbance or anti-social behaviour could not be sustained.

The application site does not benefit from any off-street parking and none is proposed as part of this application (the constraints of the site are such that none can be provided). However, given that the level of occupation associated with a HMO is not considered to be significantly greater than the occupation of the property as a Class C3 dwellinghouse, it is considered that an objection on parking grounds could not be sustained. A Residents' Parking Scheme also operates within this area which would also limit the amount of vehicles that could be associated with this particular property. It should also be noted that the property could be occupied by a large family with grown children, each owning a vehicle.

The submitted drawings do not indicate the provision of any bicycle storage facilities in line with the Parking Standards SPD. However, on the basis that access could be provided into the rear garden, the provision and retention of suitable bicycle storage facilities can be required through a suitably worded planning condition. The storage of refuse and recyclable materials would remain unchanged.

RECOMMENDATION Conditional Permission

Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Location Plan, Ground Floor Plan and First Floor Plan.
- 3) Prior to first occupation of the property as a House in Multiple Occupation within Use Class C4, secure and weatherproof bicycle storage facilities for 4 bicycles shall be provided at the site and shall thereafter be retained for the parking of bicycles at all times.

The reasons for the conditions are:

- 1) To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) To ensure the development is implemented in accordance with the permission granted.

3) To ensure that adequate provision is made for cyclists using the premises in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.

1) PRO-ACTIVITY STATEMENT

Notwithstanding that the City Council seeks to work positively and pro-actively with the applicant through the application process in accordance with the National Planning Policy Framework, in this instance the proposal was considered acceptable and did not therefore require any further engagement with the applicant.

05

16/00674/FUL

WARD:CHARLES DICKENS

2 FOSTER ROAD PORTSMOUTH PO1 4HS

CHANGE OF USE FROM DWELLING HOUSE (CLASS C3) TO PURPOSES FALLING WITHIN CLASS C4 (HOUSE IN MULTIPLE OCCUPATION) OR CLASS C3 (DWELLING HOUSE)

Application Submitted By:

Mrs Shopna Begum

On behalf of:

Mrs Shopna Begum

RDD: 26th April 2016

LDD: 22nd June 2016

SUMMARY OF MAIN ISSUES

The application is being considered by the Planning Committee on the basis of a deputation request from the objector.

The determining issues for this application relate to the suitability of the proposed C3/C4 use within the existing community and its potential impact upon the living conditions of adjoining and neighbouring residents. Other considerations are whether the proposal complies with policy requirements relating to car and cycle parking.

The Site and Surroundings

This application relates to an end of terraced property which is located on the south eastern side of Foster Road on the corner where the road adjoins with Church Road. The surrounding area is characterised by similar terraced properties and flats.

Proposal

The lawful use of the property falls within Class C3 (dwellinghouse) of the Use Classes Order. This application seeks to change the use of this property from Class C3 (dwellinghouse) to purposes falling within Class C3 (dwellinghouse) or Class C4 (House in Multiple Occupation). Normally, a change of use between Class C3 and Class C4 would be classed as permitted

development within the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). On the 1st November 2011 however, Portsmouth City Council implemented an Article 4 Direction relating to HMOs. As a result, planning permission is now required for a change of use between Class C3 (dwellinghouse) and Class C4 (House in Multiple Occupation) where between three and six unrelated people share at least a kitchen and/or bathroom.

Planning History

There is no relevant planning history for this application.

POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include: PCS17 (Transport), PCS20 (Houses in Multiple Occupation (HMOs)), PCS23 (Design and Conservation).

In addition to the above policies, the aims and objectives of the National Planning Policy Framework and the Houses in Multiple Occupation (HMOs) Supplementary Planning Document (SPD) are relevant.

CONSULTATIONS

None.

REPRESENTATIONS

One letter of objection has been received on the grounds that a) the house was built for families and is not suitable for Class C4 HMO's, b) the proposal would exacerbate existing parking congestion and put pressure on services, and c) they do not want to live next door to an HMO.

COMMENT

The determining issues for this application relate to the suitability of the proposed C3/C4 use within the existing community and its potential impact upon the living conditions of adjoining and neighbouring residents. Other considerations are whether the proposal complies with policy requirements relating to car and cycle parking.

This application seeks permission to change the use of this property falling within Class C3 (dwellinghouse) to purposes falling within Class C3 (dwellinghouse) or Class C4 (House in Multiple Occupation). This would give the applicant greater flexibility to change between these two use classes.

Policy PCS20 of the Portsmouth Plan states that applications for changes of use to a HMO will only be permitted where the community is not already imbalanced by a concentration of such uses of where the development would not create an imbalance. The Houses in Multiple Occupation SPD provides further detail on how this policy will be implemented and how the City Council will apply this policy to all planning applications for HMO use.

Of the 34 properties located within a 50m radius of this property, it was identified that two of the properties are currently classed in C4 HMO use. After further investigation it was discovered that 6 Selhurst House is no longer in use as an HMO. Therefore the existing number of HMOs within the 50m is one. The HMO SPD states that an application would be imbalanced where more than 10% of residential properties within the area surrounding the application are already in HMO. As the granting of planning permission would increase the proportion of HMOs to two (5.8%) it is

considered that the community is not already imbalanced by the concentration of HMO uses and that this application would not result in an imbalance of such uses.

With regards to the impact of the proposed use upon the living conditions of adjoining occupiers, the level of activity associated with the use of any individual property as a Class C4 HMO is unlikely to be materially different to the use of a single household as a Class C3 dwellinghouse occupied by either a single family or other groups living as a single household. The Houses in Multiple Occupation SPD is supported by an assessment of the supply, demand and community impacts of shared housing in Portsmouth. Paragraphs 9.1-9.10 discuss the negative impacts upon local communities resulting from concentrations of Class C4 HMO uses. However, given that there is only one other HMO within the surrounding area, it is considered that the impact of one further HMO would not be significantly harmful at this particular point in time seeing that there would only be two HMOs in the 50 metre radius.

The application site does not benefit from any off-street parking and there is no parking proposed as part of this application. However, given that the level of occupation associated with a HMO it is not considered to be significantly greater than the occupation of the property as a Class C3 dwellinghouse, it is considered that an objection on parking grounds could not be sustained. There is no indication of the provision of cycle storage facilities on the submitted drawings. However, it is considered that there is sufficient space within the rear garden for such facilities to be provided. These can be required by a suitably worded planning condition. The storage for refuse and recyclable materials would remain unchanged.

RECOMMENDATION Conditional Permission

Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Location Plan (received 27 April 2016).
- 3) Prior to the first occupation of the property as a House in Multiple Occupation within Class C4, secure and weatherproof bicycle storage facilities shall be provided in accordance with a detailed scheme (to include materials, size, appearance and security) to be submitted to and approved in writing by the Local Planning Authority, The facilities thereafter shall be retained.

The reasons for the conditions are:

- 1) To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) To ensure appropriate provision is made for cyclists to promote and encourage alternative and sustainable modes of transport to the private car, in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.

1) PRO-ACTIVITY STATEMENT

Notwithstanding that the City Council seeks to work positively and pro-actively with the applicant through the application process in accordance with the National Planning Policy Framework, in this instance the proposal was considered acceptable and did not therefore require any further engagement with the applicant.

289 MILTON ROAD PORTSMOUTH PO4 8PG**CHANGE OF USE FROM RESIDENTIAL DWELLING (CLASS C3) TO PURPOSES FALLING WITHIN CLASS C4 (HOUSE IN MULTIPLE OCCUPATION) OR CLASS C3 (DWELLING HOUSE)****Application Submitted By:**

Thorns Young Ltd
FAO Mr Sam Appleton

On behalf of:

Mr John Huntley

RDD: 12th May 2016

LDD: 8th July 2016

SUMMARY OF MAIN ISSUES

The application is being considered by the Planning Committee at the request of Councillor Dowling.

The determining issues for this application relate to the suitability of the proposed C3/C4 use within the existing community and its potential impact upon the living conditions of adjoining and neighbouring residents. Other considerations are whether the proposal complies with policy requirements relating to car and cycle parking.

The Site and Surroundings

This application relates to an end-of-terrace, two storey dwellinghouse with dormer windows to front and rear located on the corner of Milton Park Avenue and Milton Road. The property would comprise a lounge, bedroom and kitchen with adjacent w.c. at ground floor level, 2 bedrooms and 2 bathrooms at first floor level and an additional 2 bedrooms within the roof space. The property benefits from a shallow walled forecourt fronting Milton Road and a detached garage at the rear accessed from Milton Park Avenue.

Proposal

The lawful use of the property falls within Class C3 (dwellinghouse) of the Use Classes Order. This application seeks to change the use of this property from Class C3 (dwellinghouse) to purposes falling within Class C3 (dwellinghouse) or Class C4 (House in Multiple Occupation). Normally, a change of use between Class C3 and Class C4 would be classed as permitted development within the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). On the 1st November 2011 however, Portsmouth City Council implemented an Article 4 Direction relating to HMOs. As a result, planning permission is now required for a change of use between Class C3 (dwellinghouse) and Class C4 (House in Multiple Occupation) where between three and six unrelated people share at least a kitchen and/or bathroom.

Planning History

No element of the planning history is considered relevant in the determination of this application.

POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include: PCS20 (Houses in Multiple Occupation (HMOs)), PCS23 (Design and Conservation), PCS17 (Transport).

In addition to the above policies, the aims and objectives of the National Planning Policy Framework and the Houses in Multiple Occupation (HMOs) Supplementary Planning Document (SPD) are relevant.

CONSULTATIONS

HMO Consultation Memo

HMO data identified only 1 potential HMO within search area, that being 10 Milton Park Avenue. However, further research revealed that the property was initially placed on the HMO list solely due to a Council Tax 'student exemption' in 2011. Since that time this property has been occupied by a single person or the owner/occupier and a site visit has confirmed it is currently in Class C3 use. The property does not have any planning permission for C4 purposes nor any HMO licence from Private Sector Housing. On this basis there is no evidence that 10 Milton Park Avenue has been a HMO and it has subsequently been removed from the HMO list. As such it will be classed as a Class C3 use for the purposes of the calculations for this application.

Private Sector Housing

No response received

REPRESENTATIONS

Three letters of objection have been received on the grounds of: a) the impact on the existing limited on-street parking in the area, b) that these family houses were not built to be HMO's and c) concern about noise and antisocial behaviour from future occupiers.

COMMENT

The determining issues for this application relate to the suitability of the proposed C3/C4 use within the existing community and its potential impact upon the living conditions of adjoining and neighbouring residents. Other considerations are whether the proposal complies with policy requirements relating to car and cycle parking.

This application seeks permission to change the use of this property from purposes falling within Class C3 (dwellinghouse) to purposes falling within Class C3 (dwellinghouse) or Class C4 (House in Multiple Occupation). This would give the applicant greater flexibility to change between these two use classes.

Policy PCS20 of the Portsmouth Plan states that applications for changes of use to a HMO will only be permitted where the community is not already imbalanced by a concentration of such uses or where the development would not create an imbalance. The Houses in Multiple Occupation SPD provides further detail on how this policy will be implemented and how the City Council will apply this policy to all planning applications for HMO use.

Of the 14 properties located within a 50m radius of this property, none are currently in Class C4 HMO use. The use of this property for purposes falling within Class C3 or Class C4 would increase this to 1 out of 14 or 7.14%. This is below the 10% threshold set out in the Houses in Multiple Occupation SPD. The existing community is not currently imbalanced by a concentration of Class C4 HMO uses and subsequently, the use of this property for C3/C4 purposes does not give rise to an imbalance of such uses.

With regards to the impact of the proposed use upon the living conditions of adjoining occupiers, the level of activity associated with the use of any individual property as a Class C4 HMO is unlikely to be materially different to the use of a single household as a Class C3 dwellinghouse occupied by either a single family or other groups living as a single household. The Houses in Multiple Occupation SPD is supported by an assessment of the supply, demand and community impacts of shared housing in Portsmouth. Paragraphs 9.1-9.10 discuss the negative impacts upon local communities resulting from concentrations of Class C4 HMO uses. Having regard to the lack of any similar HMO uses in the locality, the impact of one HMO would not give rise to any adverse impacts at this point in time. It is therefore considered that the use of this property for C3/C4 purposes would not have a detrimental impact upon the living conditions of local residents.

There is off street parking provision at this property in the form of a detached single garage and this property is located within a short walk of local transport links, shops and services. Given that the level of occupation associated with a HMO it is not considered to be significantly greater than the occupation of the property as a Class C3 dwellinghouse, it is considered that an objection on parking grounds could not be sustained. There is no indication on the submitted drawings of any cycle storage provision however there is considered to be adequate space for this within the rear garden. A planning condition will subsequently be imposed to ensure that adequate cycle storage is provided and retained.

Storage for refuse and recyclable materials would remain unchanged.

RECOMMENDATION Conditional Permission

Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Location Plan and Block Plan (received 13 May 2016) and Floor Plans PG.1030 16 Revision A.
- 3) 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.

The reasons for the conditions are:

- 1) To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) To ensure that adequate cycle storage is provided for occupiers of this property in order to encourage an alternative use to the private car in accordance with policies PCS17 and PCS23 of The Portsmouth Plan.

1) PRO-ACTIVITY STATEMENT

Notwithstanding that the City Council seeks to work positively and pro-actively with the applicant through the application process in accordance with the National Planning Policy Framework, in this instance the proposal was considered acceptable and did not therefore require any further engagement with the applicant.

40 ST RONANS ROAD SOUTHSEA PO4 0PT

CONSTRUCTION OF PART 2/PART SINGLE STOREY SIDE EXTENSION AND SINGLE STOREY REAR EXTENSION

Application Submitted By:

Thorns Young
FAO Mr Charlie Power

On behalf of:

Ms Amanda Morris

RDD: 21st April 2016

LDD: 17th June 2016

SUMMARY OF MAIN ISSUES

This application has been brought to the Planning Committee for determination as the applicant is an employee of Portsmouth City Council.

The key issues in this application are whether the proposed extensions would relate appropriately with the existing house, the adjacent properties and the wider street scene, and whether the proposal would have any significant impact on the amenity of the occupiers of neighbouring properties.

The site and surroundings

A two-storey semi-detached house occupies the site, which is located on the south side of St Ronan's Road. The house is set back approximately 3.5m from the highway with vehicular access to an integral garage. The property benefits from a fairly substantial width plot of around 13m. The house is typical in design to other houses on this side of St Ronan's Road with white render, red brick and hung tiles all common materials in use.

The proposal

Permission is sought for the construction of a part single/ part two storey side and single-storey rear extension (after removal of an existing rear conservatory). The proposed side extension seeks to create additional floor space at ground floor level for a work room/utility room and at first floor level to provide an additional bedroom, with en-suite.

The existing integral garage forms part of the house on its south-west side, measuring approx 2.7m in width, 5.2m in height and 5.4m in depth; this part of the house would be extended to the side to measure approx 5.5m in width, retaining an integral garage and adding an 'L' shaped room wrapping around it. This extension would be the full depth of the house measuring around 7.4m and designed with a catslide roof to a maximum height of 7.7m, to accommodate an additional bedroom at first floor level.

The proposed ridge level of the roof would sit below the main ridge line by approximately 0.4m and include two rooflight windows. The existing conservatory located to the rear of the house that measures 3m deep and 3m wide is proposed to be replaced by a single-storey flat-roof extension some 6.7m in width, 3m in depth and 3m in height (at its highest point) and would span the entire original width of the house. The flat-roof is proposed to have a lantern style

rooflight. Matching brickwork, concrete tiles and white uPVC have been proposed as suitable materials for construction.

There is no planning history considered to be relevant to the site.

POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include: PCS23 (Design and Conservation).

CONSULTATIONS

Contaminated Land Team

Upon reviewing the application, the Contaminated Land Officer noted that due to the relatively limited scope of works proposed, a condition relating to contaminated land would not be required. However, the site is situated on the former Portsmouth to Southsea station railway line, and as such there is the potential for contamination to be present including unrecorded spills, ash and clinker or infilling areas. He has recommended that an informative is applied should planning permission be granted.

REPRESENTATIONS

At the time of producing this report, there are no submissions by way of objection nor any letters of support received for this application.

COMMENT

The determining issues in this application are whether the design of the proposed extensions are acceptable in relation to the existing house and any impact on the amenities of the adjoining occupiers of St Ronan's Road.

Design

Policy PCS23 of the Portsmouth Plan echoes the principles of good design set out within the National Planning Policy Framework which requires that all new development: will be of an excellent architectural quality; will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; will establish a strong sense of place; will respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation; relates well to the geography and history of Portsmouth and protects and enhances the city's historic townscape and its cultural and national heritage; and is visually attractive as a result of good architecture and appropriate landscaping.

The proposed development, by reason of its matching materials and design similarities with the existing extension to the other half of the pair of semi-detached houses at No.42 St Ronan's Road, is considered to be a sympathetic addition to the host property. The proposal is not considered to result in any significant detrimental visual impact to the recipient house, the streetscene or the surrounding area. The siting of proposed windows and doors throughout this development would relate suitably with the existing fenestration on the property. This increase in building bulk would not have any significant impact on the amenity space within the curtilage of the property nor would the development represent an incongruous addition to the property.

Impact on residential amenity

Policy PCS23 of the Portsmouth Plan includes, amongst other things, that new development should ensure the protection of amenity and the provision of a good standard of living environment for neighbouring and local occupiers as well as future residents and users of the development.

The proposed side extension would be set off the common boundary (to the south-west) by 1m and setback from the highway by 3.5m. The design as a catslide roof would result in an eaves height of some 3.2m. The neighbourly house at No38 St Ronan's Road is positioned some 3.5m from the common boundary with the application site. Given the separation distances and orientation of the houses, the proposed side extension would not result in any significant impact on the amenities of adjoining occupiers, in terms of their outlook, light or increased sense of enclosure.

The proposed single-storey rear extension would be 3m in depth along the boundary with and to a height of up to 3m (to the top of the roof lantern). It would not project any deeper than an existing rear extension on the shared boundary to the other half of the adjoining pair of semi-detached houses at No.42 St Ronan's Road. The proposed rear extension would not result in any significant impact on the amenities of adjoining occupiers of No42.

The proposed extensions include (i) a side window and bi-folding door at ground floor level and (ii) two rooflight windows at first floor level within the catslide roof, which would be orientated towards No38 St Ronan's Road. There are no principal windows on the side of No38. Existing boundary treatments would prevent any result loss of privacy from the ground floor side window/bi-folding door. Given the separation distance and size/position of the rooflight windows, these are not considered to result in any significant overlooking and resulting loss of privacy to the adjoining occupiers of No38.

Having regard for all matters relevant to the proposal it is considered that it is an acceptable form of development.

RECOMMENDATION Conditional Permission

Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: 9051.16.1, 9051.16.2 REV B, 9051.16.3.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match, in type, colour and texture those on the existing building.

The reasons for the conditions are:

- 1) To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) In the interests of visual amenity in accordance with policy PCS23 of the Portsmouth Plan.

1) PRO-ACTIVITY STATEMENT

Notwithstanding that the City Council seeks to work positively and pro-actively with the applicant through the application process in accordance with the National Planning Policy Framework, in this instance the proposal was considered acceptable and did not therefore require any further engagement with the applicant.

16 VICTORIA ROAD SOUTH SOUTHSEA PO5 2BZ**CONSTRUCTION OF FIRST FLOOR REAR EXTENSION AND MODIFICATIONS TO EXISTING GROUND FLOOR EXTENSION, NEW FRENCH WINDOWS AND "JULIET" BALCONIES TO FIRST AND SECOND FLOOR FRONT AND REAR ELEVATIONS AND PHOTO-VOLTAIC PANELS ON MAIN FLAT ROOF****Application Submitted By:**Pike Planning
FAO Mr John Pike**On behalf of:**The Ferryman Guest House
FAO Mr James Harrison**RDD:** 7th April 2016**LDD:** 17th June 2016**SUMMARY OF MAIN ISSUES**

The main issues to be considered in the determination of this application are whether the proposals are acceptable in design terms, whether they would preserve or enhance the character and appearance of the Conservation Area and whether they would adversely affect the amenities of the occupiers of neighbouring properties.

The application has been brought to the Committee following a deputation request from an objector.

The Site

The application site comprises the curtilage of number 16 Victoria Road South, a four-storey detached property currently in use as the Ferryman Guest House. The site is located within the Owens Southsea Conservation Area.

Victoria Road South forms the eastern boundary of the Owen's Southsea Conservation Area (with the eastern side of the road being located within the East Southsea Conservation Area). This part of the Conservation Area includes Cavendish, Hereford and Stafford Roads) leading from Victoria Road South to Albany Road. These date from between 1874-1900 and comprise late Victorian villas and semi-detached houses in a variety of materials, mainly brick or render but including stone and flint. These roads have a distinct building line and there is less tree planting than in other parts of the Conservation Area. Most properties have retained boundary walls and gate pillars. There are further Edwardian villas in Victoria Road South.

Proposal

Planning permission is sought for the construction of a first floor rear extension, modifications to the parapet wall around an existing ground floor extension, the installation of new French windows and "Juliet" balconies to first and second floor front and rear elevations and the installation of photo-voltaic panels to the main roof of the building.

Planning History

The most relevant elements of the planning history of the site are:

A*10205/AC - Permission in November 2004 for construction of mansard roof with dormers to front roofslope to form flat, construction of single-storey rear extensions, after demolition of existing staircase.

A*10205/AD - Permission in March 2006 for a change of use to form guest house (Class C1) containing 13 bedrooms with owners accommodation at ground floor level and external alterations to include single storey side extension and front porch.

Three previous applications (14/01522/FUL, 15/01551/FUL and 15/01943/FUL) for similar proposals were all withdrawn prior to being determined by the LPA.

POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include:
PCS23 (Design and Conservation).

CONSULTATIONS

Tree Officer

The protected trees onsite are within beds and borders around the perimeter and unlikely to be impacted upon by the proposed development.

Contaminated Land Team

No response received at time of writing.

REPRESENTATIONS

One objection has been received from the occupiers of the adjacent property on the following grounds:

- There is a restrictive covenant precluding the use of the site as a hotel or place of business;
- Overshadowing and loss of light;
- Overbearing;
- Overlooking and loss of privacy; and
- Increased noise, disturbance and odours.

COMMENT

The main issues to be considered in the determination of this application are whether the proposals are acceptable in design terms, whether they would preserve or enhance the character and appearance of the Conservation Area and whether they would adversely affect the amenities of the occupiers of neighbouring properties.

Section 72 of the Listed Buildings and Conservation Areas Act 1990 (as amended) requires that LPAs pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

The proposed extension has been designed to complement the appearance of the existing extension and the recipient property. Its detailing and fenestration would match the existing with its modest scale ensuring it would not appear unduly prominent or overwhelming. The proposed extension is therefore considered acceptable in design terms such that it would preserve the character and appearance of the Owens Southsea Conservation Area.

The proposed first floor rear extension would be built above part of an existing single storey rear extension. The existing extension measures 4 metres deep and is located 2.4 metres from the boundary with Empire House (Hereford Road). The extension is topped by a parapet wall with a

height above ground level of 4 metres. The existing extension is faced by three windows serving the kitchen of Empire House. The outlook from these windows is severely restricted by the presence of the existing extension which also prevents much natural light from reaching the kitchen they serve.

The proposed first floor extension would measure 2.1 metre deep by 2.9 metres wide with a flat roof behind a parapet wall. The proposed extension would be set 1 metre back from the side of the existing extension giving an overall separation from Empire House of 4 metres. The relative positing of the proposed extension over the existing is such that its construction would give rise to a modest increase to the existing sense of enclosure and further exacerbate the lack of light and outlook. However this application also includes the proposed lowering of the parapet wall above the existing extension by 0.5 metres to a height of 3.5 metres. This will improve the outlook from, and light to, the ground floor windows in the neighbouring property.

Having regard to the impact of the existing extension on the living conditions of the occupiers of Empire House it is considered that the combined effect of the proposed extension and alterations to the existing parapet wall would be neutral as the harm from the new extension would be offset by the proposed alterations to the parapet wall of the existing extension. The proposed alterations to the existing parapet wall can be secured through the imposition of a suitably worded planning condition requiring them to carry out prior to construction of the first floor extension.

The proposed installation of French windows and Juliet balconies to existing windows are considered acceptable in design, heritage and amenity terms.

The proposed solar panels would be an addition to the flat roof of the existing mansard roof and would be mounted at an angle to maximise their efficiency. The location of the proposed solar panels would limit their visibility from the public realm, however they would be visible from windows in the upper floors of neighbouring properties. It is considered any harm to the character and appearance of the Conservation Area from the solar panels, would be offset by the benefits of reducing reliance on non-renewable forms of energy as encouraged by the NPPF and the Portsmouth Plan.

The proposals would not enlarge the existing guest house and as such would not be likely to result in an increase in activity associated with its lawful use. A planning condition could be imposed precluding the use of the flat roof of the altered and proposed extensions as roof terraces in the interests of protecting the residential amenities of the occupiers of neighbouring properties. The existence of a covenant restricting the use of the application site is not relevant to the determination of this planning application and would be a private legal matter.

RECOMMENDATION Conditional Permission

Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 2) Unless agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: 5187-1200 Rev.D; 5187-1300 Rev.C; 5187-1201 Rev.H; and 5187-1301 Rev.H.
- 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match, in type, colour and texture those of the existing building.
- 4) No works associated with the construction of the first floor rear extension hereby permitted shall be carried out until the parapet wall above the existing extension has been carried out in accordance with the approved drawings.

5) At no time shall the flat roof over the existing single storey rear extension or that over the first floor extension hereby permitted be used as a balcony or roof terrace.

The reasons for the conditions are:

- 1) To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) In the interests of visual amenity in accordance with policy PCS23 of the Portsmouth Plan.
- 4) To protect the residential amenities of the occupiers of Empire House in accordance with Policy PCS23 of the Portsmouth Plan.
- 5) To protect the residential amenities of the occupiers of neighbouring properties in accordance with Policy PCS23 of the Portsmouth Plan.

1) PRO-ACTIVITY STATEMENT

In accordance with the National Planning Policy Framework the City Council has worked positively and pro-actively with the applicant through the pre-application process to achieve an acceptable proposal without the need for further engagement.
