



NOTICE OF MEETING

PLANNING COMMITTEE

WEDNESDAY, 28 JUNE 2017 AT 1PM

EXECUTIVE MEETING ROOM, THIRD FLOOR, THE GUILDHALL

Telephone enquiries to Jane Di Dino, 023 9283 4060

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If any member of the public wishing to attend the meeting has access requirements, please notify the contact named above.

Planning Committee Members:

Councillors Jim Fleming (Chair), Frank Jonas (Vice-Chair), Jennie Brent, David Fuller, Colin Galloway, Steve Hastings, Lee Hunt, Hugh Mason, Robert New and Steve Pitt

Standing Deputies

Councillors Suzy Horton, Gemma New, Darren Sanders, Lynne Stagg, David Tompkins, Steve Wemyss, 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 Meeting.**

The minutes of the meeting held on 14 June 2017 will be considered at the next meeting.

- 4 Updates on previous planning applications by the Assistant Director of Culture & City Development.**

Planning Applications.

- 5 16/01438/FUL Access road to Qinetiq site land west of Fort Cumberland, Fort Cumberland Road (Pages 3 - 66)**
- 6 17/00265/FUL - 50 Hudson Road, Southesa PO5 1HD.**
- 7 17/00289/FUL - 18 Bath Road, Southsea PO4 0HT.**
- 8 17/00390/FUL - 50 Waverley Road, Southsea PO5 2PP.**
- 9 17/00408/FUL - 6 Western Terrace, Portsmouth PO2 8JX.**
- 10 17/00435/FUL - 7 Montgomerie Road, Southsea PO5 1EB.**
- 11 17/00576/PLAREG - 24 St Thomas's Street, Portsmouth PO1 2EZ.**
- 12 17/00647/HOU - 20 Stanley Avenue, Portsmouth PO3 6PN.**
- 13 17/00724/HOU - 52 Chelsea Road, Southsea PO5 1NJ**
- 14 17/00796/HOU - 102 Tangier Road, Portsmouth PO3 6PG**

Agenda Item 5

PLANNING COMMITTEE 28 JUNE 2017

**THE EXECUTIVE MEETING ROOM,
FLOOR 3, 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>

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**ACCESS ROAD TO QINETIQ SITE LAND WEST OF FORT CUMBERLAND FORT
CUMBERLAND ROAD SOUTHSEA****WIDENING OF EXISTING ACCESS ROAD TO PROVIDE TWO-WAY CARRIAGEWAY WITH
PROVISION OF FOOTPATH AND CYCLE LANE****Application Submitted By:**

JLL Planning & Development
FAO Mr David Ramsay

On behalf of:

Willowpath And Qinetiq

RDD: 25th August 2016

LDD: 11th November 2016

SUMMARY OF MAIN ISSUES

The material planning consideration for the proposed access road are:

- Whether the proposal would constitute sustainable development;
- Whether the proposal before the Council is capable of consideration in its current form;
- Whether there is a need for the development;
- Whether the proposal would result in harm to the environment.

The Site and Surroundings

The land the subject of this application is described as the access road to the Qinetiq site, and locally is known to be the access which exists, providing the connection from Fort Cumberland Road to Eastney Beach.

The existing unmade road is located on the northern side of the Southsea Leisure Park and south of a Local Wildlife Site which is Protected Open Space.

The existing unmade access road leads to the former Ministry of Defence /Qinetiq site known as Fraser Range or Fraser Battery. The land the subject of the application is/was owned by Portsmouth City Council at the time of the application being made. The applicant has served a Certificate B on Portsmouth City Council as land owner.

Separate to the planning process, Portsmouth City Council as land owner has been progressing the creation of an easement for the purposes of access, which once established would enable its inclusion as development land into any future proposal to redevelop Fraser Range. While this matter is separate to the planning process, it is noted that with those issues being pending, the progression and satisfactory conclusion of this application is only part of the intentions of the applicant.

The Local Planning Authority (LPA) is not in receipt of a concurrent application for the redevelopment of Fraser Range or any associated Environmental Statement.

The subject land is approximately 200 metres in length with a typical width of 12 metres. The existing unmade road has a width of approximately five metres. The land the subject of the proposal would include a 0.15 hectare strip of grassland which is adjacent to the unmade access road and within the area of Protected Open Space. It is for this reason that the planning application was advertised as a departure from the Development Plan.

The unmade access road is not adopted highway.

The land designations which are key to the proposal include:

- the Local Wildlife Site which is Protected Open Space under Policy PCS13 of the Portsmouth Plan;
- part of the access road which is Flood Zone 2 at the most western end;
- the site being adjacent to but outside of Fort Cumberland which is a Scheduled Ancient Monument and includes Grade II Listed Buildings;
- the site lies within 500 metres of Langstone Harbour, which is the subject of the following ecological designations: Site of Special Scientific Interest, Special Protection Area, Special Area of Conservation, and Ramsar wetland.

The application

Planning permission is sought to widen and surface the existing unmade access road to provide a six metre wide two-way carriageway together with the provision of street lighting and a three metres wide shared footway/cycle lane. The proposal includes a two metre wide service strip for the proposed length of the road.

The planning application is accompanied by a Design and Access Statement (DAS) that details the proposal to include alterations to the junction with Fort Cumberland Road to form a priority junction. The widening works include an altered access to the existing gravel car park, reconfiguring the entrance for traditional access and improved highway safety for all users.

The DAS proposes the road to accommodate two way traffic and the future construction traffic that will be required for the sea wall improvements. Traffic calming measures are proposed to be implemented along the access road to control speed of road users.

In addition to the DAS the planning application is accompanied by an Arboricultural Impact Assessment, Lighting Assessment, Ground Conditions Report, Transport Report, Ecological Assessment Report and Flood Risk Assessment.

The Transport Note and Flood Risk Assessment state that the proposed access road design is acceptable for serving the residential development of Fraser Range up to 300 dwellings.

Relevant Planning History

The planning history of the site was detailed in the DAS submitted with the planning applications. The following table details the relevant planning history from Council's records.

Decision Date	Site	App. Reference	Development	Status
22.06.2017	Coastal Defences Fort Cumberland Fort Cumberland Road PO4 9LJ	16/00255/FUL	Replacement of existing coastal sea defences with a rock revetment adjacent to Southern Water outfall / site	Conditional Permission

01.07.2013	Qinetiq Fraser Fort Cumberland Road Eastney PO4 9LJ	13/00576/DEM	Demolition of metal tower	No Objection to the demolition
17.08.2011	Qinetiq Fraser Fort Cumberland Road Eastney PO4 9LJ	A*26996/AP	Construct 131 residential units (totalling 13300sqm gross ext floorspace) in 3 new build blocks (A,B & C); A- part 7-/6-/5- storey; B- part 6-/5-/4- storey; C- part 5-/4-/3- storey; associated car parking, provision of access & landscaping	Withdrawn detailed further below this table
27.09.2007	Car Park Fort Cumberland Road Southsea	07/00939/FUL	Use of land as a temporary works compound, including installation of office/welfare units, car parking, materials and topsoil storage areas, wheelwash facilities and security hoarding for a limited period until 30 March 2010	Refused
06.07.2004	Qinetiq Fraser Fort Cumberland Road Eastney PO4 9LJ	A*26996/AN	Certificate of Lawfulness for existing uses as offices, research and light industrial purposes (Class B1) together with ancillary storage/distribution (Class B8), General Industrial (Class B2) and sui generis uses.	Granted
31.12.2003	Qinetiq Fraser Fort Cumberland Road Eastney PO4 9LJ	A*26996/AM	Construction of 34m High Tower and single storey substation to southern boundary and re-cladding of Building B286	Withdrawn
28.03.2003	Qinetiq Fraser Fort Cumberland Road Eastney PO4 9LJ	A*26996/AK	Installation of 28m high Lattice Mast, portacabins and tracker cabin.	Conditional Permission
14.03.2003	Qinetiq Fraser Fort Cumberland Road Eastney PO4 9LJ	A*26996/AL	Installation of 2.4m high security fence and gates with pedestrian access to entrance of Fraser Range	Permission

09.11.1998	Fort Cumberland Fort Cumberland Road Eastney	A*33097/AA	Conversion of buildings within parade ground to form ancient monuments lab within ancillary offices/storage	No objections
18.03.1994	Land South East Of Fort Cumberland Road, North Of Southsea Caravan Park And West Of Fort Cumberland Eastney	A*32967/AB	Use as temporary camping and caravan site from 1 st May- 31 st May 1994 with associated temporary buildings for shower and toilet facilities.	Conditional Permission
11.04.1989	West Of Fort Cumberland Eastney	A*32967/AA	Temporary use of land for the assembly and launching of a steel outfall pipeline.	Conditional Permission
29.07.1987	Land South-East Of Fort Cumberland Road And North Of Fraser Battery Road Eastney	A*32967/A	Provision of car park and public open space	Conditional Permission
1986	Car Park Between Fort Cumberland Road And Access Road To Fraser Gunnery Range Eastney	A*33097	Siting of mobile refreshment kiosk	Conditional Permission
06.03.1986	Land And Foreshore West Of Fort Cumberland Eastney	A*32967	Temporary use of the land for the assembly and launching of a steel outfall pipeline	Conditional Permission
1984	Land Adjacent To Fort Cumberland Eastney	B*32433/A	Use of the land for grazing of horses and siting of caravan.	Conditional Permission

A*26996/AP - outline application for the redevelopment of the Fraser site to create a total of 131 flats (1, 2 & 3-bedroom) within three blocks of varying height, the provision of an access road (including improvements to Fort Cumberland Road), and the provision of associated car parking and landscaping works, the latter including a 5m wide esplanade adjacent to the beach/sea defences, footpaths and a viewing area at the eastern end of the site. This application was the subject of a resolution in 2005 to grant permission subject to the completion of legal agreements under section 106 of the Town and Country Planning Act and section 278 of the Highways Act. The required legal agreements were not completed and the resolution to grant was rescinded in 2011. The application was subsequently withdrawn.

Licences and Easements over Land

Separate to the planning process Portsmouth City Council as land owner grants licences under separate legislation for the use of land across the City. Portsmouth City Council has proposed

to grant a works licence, and deed of easement (temporary to December 2019), to facilitate any construction activity for the development of Fraser Range.

There is a separate process for granting of licences and easements and the consideration of this planning application in no way limits the Council as land owner, and conversely, the Local Planning Authority discretion is in no way fettered by the granting of a licence or easement.

POLICY CONTEXT

The relevant policies within the Portsmouth Plan would include:

PCS9 (The seafront), PCS12 (Flood Risk), PCS13 (A Greener Portsmouth), PCS16 (Infrastructure and community benefit), PCS17 (Transport), PCS23 (Design and Conservation),

The relevant policies within the Portsmouth Plan would include: PCS9 (The seafront), PCS12 (Flood Risk), PCS13 (A Greener Portsmouth), PCS16 (Infrastructure and community benefit), PCS17 (Transport), PCS23 (Design and Conservation).

Departure from Development Plan

The proposed development has been advertised as a departure from the Development Plan, in so far as the proposal would include land that is mapped and designated as Protected Open Space on Map 21 of the Portsmouth Plan and proposes its permanent loss as open space and developed as part of a road. While the Portsmouth Plan provides for loss of existing areas of open space this is only envisaged where there are wider public benefits, and while the applicant seeks to make this case, the proposal was advertised on the basis of being a departure.

National Planning Policy Framework

Paragraph 6 sets out that the "purpose of the planning system is to contribute to the achievement of sustainable development". Paragraph 7 sets out that "there are three dimensions to sustainable development: economic, social and environmental" goes on to highlight the social role as including "supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment" and the environmental role as "contributing to protecting and enhancing our ... built and historic environment".

Paragraph 9 identifies that "pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life, including (but not limited to): replacing poor design with better design; and widening the choice of high quality homes.

Paragraph 11 reaffirms that "Planning law [Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990] requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise".

Paragraph 14 makes it clear that at the heart of the NPPF is a presumption in favour of sustainable development, for decision making this means approving development proposals that accord with the development plan without delay.

Paragraph 119 confirms that "the presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined".

The following paragraphs of the National Planning Policy Framework are relevant to the proposal and should also be considered when determining this planning application:

17	Core planning principles for decision making
32	Transport Statements and Assessments
35	Development designed for sustainable transport
61	Decisions should address connections between people and places
109	Enhancing the natural and local environment
118	Conserving and enhancing biodiversity
128	Describing heritage assets
129	Significance of heritage assets
131	Desirability of sustaining and enhancing the significance of heritage assets
132	Significance and harm to heritage assets
190	Pre-application early engagement
197	Presumption in favour of sustainable development
204	Planning obligations and conditions used to make development acceptable

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.

CONSULTATIONS

Highways Engineer

The application is for widening of existing access road to provide two-way carriageway with provision of footpath and cycle lane. I have reviewed the Transport Note and associated plans submitted in support of the development and would make the following comments:

The proposal site is an un-adopted road that leads to a Former MOD site. The road currently spans between 4-5m in width and has a simple priority junction with Fort Cumberland Road. It is subject to a 30mph speed limit. It should be noted that Fort Cumberland Road in its entirety is currently un-adopted and in the ownership of Portsmouth City Council.

The new access road is proposed in order to facilitate possible future development and/or coastal defence works. As such the road has been designed to accommodate HGVs allowing them to pass. The road will be constructed to accommodate up to 1250 vehicles an hour which would be sufficient to cope with the trip rate created by a potential 300 dwelling development at the MOD site. Should this application come forward however, analysis of the local junctions and Highway network would need to be considered to determine viability.

The proposed new junction with Fort Cumberland road essentially realigns the bell mouth and also removes the entrance to a private car park. This defines the junction much better than at present and with the car park entrance relocated, there is less activity occurring at the junction and is in my opinion an improvement on the existing arrangements. There is however an access to the adjacent caravan park visible in the boundary fence fronting the application site. There are however no dropped kerbs to create a legitimate footway crossover to allow access, therefore unless a consented access exists, I am satisfied with the design.

Currently, Fort Cumberland Road is un-adopted however should this change prior to the application being granted, a section 278 agreement would need to be agreed with the Highway Authority before any changes to the Highway are made. If there is no change in the status of the Highway ownership, permission would need to be sought from the landowner before alterations to the Private road are carried out.

As the application stands, I would not wish to raise an objection on Highway grounds.

Environmental Health

Noise and dust

The proposed development comprises of the widening of the access road and alterations to the junction with Fort Cumberland Road to form a priority junction, this will involve the use of heavy goods vehicles, machinery and equipment. The use of this equipment is likely to have an impact on the residential properties on Fort Cumberland Road. Any noisy operations should where reasonably practicable use quiet working methods and put mitigation measures in place where necessary to reduce noise levels. The applicant should therefore be aware of BS5228-1:2009 Code of practice for noise and vibration on construction and open sites - Part 1: Noise.

When undertaking construction works during periods of dry and/or windy weather, dust problems often prevail, particularly on sites bordered by residential properties. Best Practicable Means (BPM) must be taken to prevent dust causing a nuisance and it is the duty of the contractor to demonstrate that all reasonable remedial action has been implemented.

The applicant should be directed to Portsmouth City Council best practice document for The Control of Dust and Emissions from Construction and Demolition Sites.
<https://www.portsmouth.gov.uk/ext/documents-external/cmu-dust-emissions.pdf>

Traffic movement

On reviewing the transport note submitted with this application it gives reference to the widening of the road for:

- 2-way HGV movement to improve sea defences
- Provision for up to 300 dwellings

Upon completion (subject to planning permission) the road could support up to 100 vehicle movements per hour and 1250 vehicles during the peak hours.

The transport note summarises that the new road will have no material impact upon the current road network. Whilst this may be the case, future developments especially residential accommodation in this area are likely to increase the traffic flow significantly, however when considering the National Air Quality pollutant objectives, it is unlikely that the annual and hourly means will be exceeded even with the proposal of 300 homes being built on the Quinetiq site.

Lighting

The lighting modelling undertaken by Peter Brett Associates identifies that any light intrusion from the street lighting reduces well before any residential properties on Fort Cumberland Road.

Summary

To summarise the widening of the carriage way is likely to have an impact upon residential properties in Fort Cumberland Road in relation to noise and dust emissions during the construction phase, however mitigation measures can be used to lessen the impact for residents.

It is perceived that the vehicle movement will be increased during the construction of the extra carriage way and that a significant movement of vehicles is only likely to occur upon further development of the Quinetiq site nevertheless the national air quality objective threshold limits in this area will not be exceed with regards to these proposed developments.

I therefore do not wish to raise any objections to this application.

Hants & IOW Wildlife Trust

We have previously commented on development proposals at the Quinetiq site, in 2008 and again in 2011. Whilst we acknowledge that the development proposals included with this application are for the widening of the existing access road, it is evident from information included in the Transport Note 1, that the proposals are designed to also facilitate the development of the wider site, to deliver 300 dwellings and the associated coastal defence works. We are disappointed that these development proposals have been submitted in isolation and that a holistic approach has not been adopted. Without a strategic approach to mitigating the impacts of development proposals, we consider that it will not be possible to protect the sensitive ecological receptors at the site and in the wider area.

The Ecological Assessment 2, states that 0.15ha of the Fort Cumberland SINC will be lost as a result of these proposals, although it suggests that approximately half of this area forms part of the existing car park. According to our records, and it would appear Portsmouth City Council's, based on drawing IT/2106/A of the Ground Conditions Report³, the car park does not form part of the SINC. Further clarification is needed on this point. The Ecological Assessment identifies the remaining area of the SINC as being of "low intrinsic botanical value" and bearing evidence of "significant degradation in floristics and structure, likely to be the result of a number of factors including a lack of management, past gross disturbance (and possible reseeded with an amenity seed mix) and ongoing recreational trampling and soil enrichment from large numbers of dog walkers".

We consider that it is unacceptable to promote a site for development that has been designated at county level for its nature conservation value. It is also unacceptable to use the lack of management and subsequent degradation of interest features as justification for the development of that SINC. If this approach was considered acceptable, it could see a trend whereby county wildlife sites are left unmanaged, in order to facilitate development in the future.

The Trust has significant concerns with the use of county wildlife sites for recreation and the lack of sufficient Alternative Natural Greenspace within developments. Section 4.2 of the Ecological Assessment provides some recommendations for managing the remainder of the SINC that are aimed at ensuring there will be no biodiversity loss as a result of these proposals. In isolation, we do not think that these measures will be sufficient and that they should be linked into a more strategic mitigation strategy that seeks to address recreational impacts on the SINC and the wider area as a whole.

Botanical Surveys

These surveys appear to provide a good indication of the botanical value of the site, but we note that they were carried out in June/July and as such it is possible that important species, such as autumn lady's tresses, which are known to be present on the site, may have been overlooked as they are late flowering species. Further surveys are recommended at the appropriate time of year.

Nocturnal Species

The proposals will result in the introduction of artificial lighting in an area where there is currently none. Ecological receptors associated with the adjacent SINC have been broadly considered in the lighting assessment⁴; Table 3.1 of the assessment considers that although the SINC supports Dartford warbler and other protected species, "the strip of habitat within the SINC immediately adjacent to the existing access road is unlikely to support the key species of interest in significant numbers as it runs parallel to the well-used access road which will already be subject to a level of disturbance."

No consideration appears to have been given to the use of the site or the wider SINC by bird species associated with the SPA during the hours of darkness and how they might be impacted. In addition, no consideration has been given to the use of the vegetation bordering the road by foraging bats. For example, we are aware that the southern boundary of the site is bordered by a mature *Leylandii* hedge and this may serve as an important foraging resource for bats, particularly since it may offer a sheltered environment during periods of bad weather. The introduction of street lighting will likely result in the displacement of any bat species using this resource, but it is not possible to assess the significance of this impact since no surveys have been carried out.

Solent Wader and Brent Geese Strategy

Part of the proposed development site has been included within the Solent Wader and Brent Goose Strategy (2010). The strategy identifies the site, as having 'no recorded use' by brent geese, but 'uncertain' in its usage by waders. It is worth noting that the Wader and Brent Goose strategy is currently being revised and additional information to that included in the 2010

strategy may well be available as part of an interim update, as such we would recommend consulting the Hampshire Biodiversity Information Centre in order to get the most up-to-date information, if that has not already been done.

Annex 1 Species

The Dartford warbler is known to be present on the site and we note that there are recent records in the vicinity of the car park. It would appear that the area proposed for development does not support suitable habitat for this species to breed, however it could be used as part of the supporting foraging habitat. The need for a breeding bird survey on the SINC to identify the usage by the species was identified in the UAE report⁵ linked to the previous applications; it would appear that this has not yet been done.

1 PBA (2016) Transport Note: Improvements to Access Road to Fraser Range off Fort Cumberland Road, Portsmouth

2 PBA (2016) Improvements to Access Road to Fraser Range off Fort Cumberland Road, Portsmouth - Ecological Assessment

3 PBA (2016) Improvements to Access Road to Fraser Range off Fort Cumberland Road, Portsmouth - Ground Conditions - Baseline Opportunities & Constraints

4 PBA (2016) Improvements to Access Road to Fraser Range off Fort Cumberland Road, Portsmouth - Lighting Assessment

Langstone Harbour Board

The Board's Planning Sub Committee has considered this application and has no objections to the proposals.

Seafrost Manager

No response received

Contaminated Land Team

I have reviewed the above application and the submitted desk study: Fraser Range Ground Conditions Report August 2016. 38045/3501. Ref 866294.

Whilst the works are to widen the road I would request conditions are placed on this development for further information about ground conditions. The report makes reference to a 2003 investigation by Structural Soils and this report should be submitted so that it can be reviewed - it is cited in the desk study as saying there is c. 1m of rubble, slag, ash and scrap metal present and this suggests possible infill. Nearby infilling by the MOD at the 'Glory Hole' contains various wastes resulting in an agreement to control any excavations in that area. I must therefore recommend conditions (as below) to assess ground conditions before works rather than suggest an informative about the disposal of waste. This information may be contained in the 2003 report which may therefore remove the need for suggested condition 1a (below).

With regard the stated site usage, concentrations of lead, copper, zinc and other residues are likely to be present from the bullets (slug and jacket). These residues will be concentrated in around berms and mantelets and so probably will be concentrated away from the development area. There may also be the possibility of discarded cartridges as well as dropped The watching brief should include specific reference to UXO.

1. No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the Local Planning Authority before development commences or within such extended period as may be agreed with the Local Planning Authority:
 - a) A report documenting the ground conditions of the site including description and chemical analysis for pollutants asbestos, heavy metals, speciated PAHs and fractionated hydrocarbons; the laboratory should be UKAS accredited and where methods exist, analysis should be accredited by the Environment Agency's Monitoring Certification Scheme (MCERTS); and, unless otherwise agreed in writing by the LPA,

- b) A detailed scheme for measures to be undertaken to avoid risk from contaminants when the site is developed. This should comprise a Watching Brief a waste management and disposal protocols; the approach to Explosives Ordnance Detection; and
2. The development hereby permitted shall not be brought into use until there has been submitted to and approved in writing by the Local Planning Authority verification that any works approved under the provisions of condition (1)b has been implemented fully in accordance with the approved details (unless varied with the written agreement of the LPA). Unless otherwise agreed in writing by the LPA such verification shall comprise a stand-alone report including (but not be limited to):
- a) Description of works completed and rationale.
 - b) photographs of the works in progress.
 - c) certificates demonstrating that imported and/or material left in-situ is free of contamination, and records of amounts involved.

Reason: To ensure that the risks from land contamination are managed to ensure that the development can be carried out safely.

Natural England

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

European sites - Solent Maritime Special Area of Conservation (SAC), Chichester and Langstone Harbours Special Protection Area (SPA) and Ramsar.

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on Chichester and Langstone Harbours (SPA) and Ramsar or Solent

Maritime (SAC), and has no objection to the proposed development.

To meet the requirements of the Habitats Regulations, we advise you to record your decision that a likely significant effect can be ruled out. The following may provide a suitable justification for that decision:

- The site is partially within land classified in the Waders and Brent Goose Strategy as no recorded use for brent geese and uncertain for waders. However, the absence of suitable habitat and high level of recreational disturbance indicate that this site is unlikely to be utilised as a high tide roost by the qualifying features of the aforementioned SPA.

Langstone Harbour Site of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

Other advice

We recommend that you seek further information from the Hampshire & Isle of Wight Wildlife Trust and your local county ecologist regarding the impacts to Fort Cumberland Site of Importance for Nature Conservation (SINC) and the onsite protected species.

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

Ecology

The application is supported by a thorough Ecological Assessment report (PBA, August 2016). This includes a very thorough assessment of the botanical interests at the site.

Overall, I have no concerns over the quality of the survey information, and I would consider that it presents a fair picture of the ecological interests of the site. However, I do have concerns over this proposal.

The report concludes that "The loss of this small area of botanical communities from the SINC as a result of the proposed development, including a small number of individual sea radish plants, is not therefore considered to be significant". While the communities present in the area concerned may not represent particularly rare or diverse habitats, they are part of the Local Wildlife Site (LWS), which forms part of the protected open space of Portsmouth as set out in Map 21 of the Portsmouth Plan. The development would also result in a permanent loss of extent of the LWS and as such would represent a net loss of biodiversity.

Such impacts would mean that the development would be contrary to Policy PCS13. This policy requires that such impacts are only acceptable if there are wider public benefits that outweigh the harm, impacts cannot be avoided, and impacts can be compensated.

Having read the Planning Statement and the ecology report, I am unclear what the actual need for and benefits of the road would be. The Planning Statement states that the development will allow two-way traffic as well as pedestrian and cycle access. However, I am unsure why this is necessary.

The Transport Note does include some additional information regarding the planned future use of the QuinetiQ site for a development of up to 300 dwellings, as well as highlighting future necessary sea defence works to support that development (also alluded to in the ecology report).

I would also question this approach given that there is (as far as I am aware) no approval for any housing here. If this application is permitted, and the road constructed, but the development of the houses at the QuinetiQ site does not gain approval then there would have been a permanent loss of LWS habitat for no reason at all.

However, this is more a planning balance issue, outside of ecological considerations. If you are satisfied that the current level of use at QuinetiQ is such that there is a real need for a separate pedestrian access, cycle access and two-way traffic, or that it is accepted that the future use of the QuinetiQ site for housing is necessary and will happen, then that argument may have been met.

In view of these points, I would also raise the issue of whether the proper way of considering this application would be in a more transparent manner with all the information regarding the purpose, and in the context of full information about the development proposals.

Given that it appears that the purpose of this development is to enable a major housing development on the coast, near Chichester and Langstone Harbours Special Protection Area (SPA), I would suggest that there is a case that this development would trigger the need for a Habitats Regulations Assessment. I would suggest that Natural England (NE) are asked about this particular issue.

I would also note that the stated benefits (in the ecology report) of the road in terms of improving access to Eastney Beach would not be immediately acceptable, as Eastney Beach supports a high tide wader roost and any projects that are designed to deliberately encourage more visitors to coastal areas such as this would be considered to have a likely significant effect on the nearby SPA.

The development would have potential short term impacts, for example from the location of the site compound. No information has been provided on this, other than saying that this information would be provided in a Construction Environment Management Plan. Given that the development - and potentially the compound and other ancillary features - are entirely within a LWS, I would suggest that more information is provided on the CEMP at this stage.

No measures are included to address the permanent loss of LWS habitat, other than stating that formalising the pedestrian access along the widened road would reduce impacts to the rest of the LWS. I would disagree with this, as existing trampling impacts appear to stem in large part from people using the whole site as a dog walking resource, and such users would seem to be

unlikely to change their habits and only walk up and down the new hard surface next to a road (a road which presumably would be experiencing higher traffic levels, including HGVs during construction of the housing development).

Environment Agency

We have no objections to the proposed development, as submitted.

Flood risk

According to our Flood Map, the existing road is located largely within Flood Zone 1 (low probability of flooding), although a small section at the western end is within Flood Zone 2 (medium probability).

Over the lifetime of the development (100 years) the whole of the road will fall within Flood Zone 3 (high probability), and could be at risk of flooding if improvements to defences are not made.

The main risk to the road will be from tidal flooding from the north (Eastney Lake) where defences have a lower standard of protection.

The Flood Risk Assessment submitted with the planning application demonstrates that the proposed changes to the road layout will not result in an increase in flood risk.

You should consider requiring that a site specific flood warning plan is developed for the access route. This will help to manage the potential risk of flooding over the developments lifetime.

Eastern Solent Coastal Partnership

The Eastern Solent Coastal Partnership (ESCP) have no objection to the proposed development.

The access road as it stands currently is located within Flood Zone 1 (<0.1% annual probability of tidal flooding), with a small portion of the road towards the west located within Flood Zone 2 (0.1% annual probability of tidal flooding), and is therefore deemed to be at relatively low risk of experiencing tidal flooding. This is predicted to be the case until at least the year 2055, however by approximately 2085, as a result of predicted climate change, it is expected that a large portion

of the road will be located within Flood Zone 3 (0.5% annual probability of tidal flooding), with the remaining located within Flood Zone 2. By 2115 (100 year lifetime development), it is expected that the access road will be wholly located within Flood Zone 3, and could therefore be at high risk of experiencing tidal flooding if improvements are not made to the existing defences.

The main risk to the access road will be tidal flooding from Eastney lake, to the north of the road, where the sea defences have a lower standard of protection than those to the south of the road.

However, as outlined in the Flood Risk Assessment (FRA) submitted, the proposed changes to the layout of the road will not increase the residual flood risk. Improved access will also aid the delivery of improvements to the existing sea defences, should these take place at a later stage.

Coastal And Drainage

Due to the topography of the existing carriageway it would appear that any surface water flood, as demonstrated in the 1/100 yr Microdrainage calculations, would cascade in a westerly direction as overland flow and onto Fort Cumberland Road from the proposed 2 lane carriageway. The road must not cause flooding outside it's extents and therefore consideration must be given to providing an offline attenuation / infiltration pond for which there appears to be an available area to the SW corner of the site.

There are known surface water flooding issues at the junction of Fort Cumberland Road and Melville Road which are well documented - photo attached from 2015. We have been working to rectify the localised flood and are still unsure exactly of the cause. Of course, we are keen to prevent further surface water arriving at the location if it can be prevented.

The remainder of the application appears to have considered surface water adequately, and infiltration is accepted as a viable means of draining the proposed carriageway.

Historic England

We do not wish to comment in detail, but offer the following general observations.

The proposed development is in close proximity to the scheduled monument of Fort Cumberland (National Heritage List no 1015700), a Napoleonic period bastioned Fort. There is an existing road to the south west of the Fort and this application concerns widening and associated landscaping, in particular to allow safe access for all users during improvements to the sea wall. We do not think that there will be a significant negative effect on designated heritage assets (the adjacent Fort) from the proposals, however we recommend the County Archaeological Advisor be consulted in case there are any issues to be addressed regarding undesignated archaeological remains along the widening route.

Recommendation

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

RSPB

We were made aware of this application by local residents who are concerned about the potential nature conservation impacts resulting from the above proposal. Recreational disturbance has the potential to adversely impact the integrity of the Solent Special Protection Areas (SPAs). Anticipated increasing recreational disturbance resulting from new residential developments within in 6.5km of the SPAs is being addressed via the Solent Recreation Mitigation Partnership (SRMP). Strategically considering car parking provision across the Solent coast and associated access was as identified as having the potential to contribute to addressing recreational disturbance. The proposal lies in close proximity to the Chichester and Langstone Harbours SPA and looks to improve access to the coast and therefore should be considered within this context.

Whilst development of the Quinetiq site is not stated as an aim of the proposed widening the Transport Note supporting the application assumes a future development of 300 houses with associated parking. The Transport Note also states that in the context of future redevelopment of the former MOD site, improvements to the sea wall may be required, which the widened road could facilitate. It is therefore understood that the widening of the road will support potential future development proposals rather than being required currently. Given the existing situation, the road could provide a safe route for pedestrians and cyclists by closing the road after the car park entrance to vehicle traffic and this could be achieved within the existing road footprint. It is inappropriate to remove 0.15 ha of the Fort Cumberland Site of Importance for Nature Conservation (SINC) for the provision of a wider road which does not seem to be justified without the approval of future redevelopment plans which are yet to be proposed.

The RSPB previously objected (June 2011) to a residential development proposal at the Quinetiq Site (A*26996/AP) as a result of concerns regarding potential impacts on wintering SPA bird populations arising from increased recreational disturbance to birds feeding and roosting and inadequacies of the assessment particularly in respect of breeding birds. We strongly urge that redevelopment proposals for the former MOD site are considered in their entirety, including infrastructure required, to allow the proper assessment of any impacts on the SPA, SINC and protected species.

Dartford warbler (Annex I species) have been recorded using the SINC prompting identification (A review of the need for a breeding bird survey in connection with Quinetiq Fraser Residential Development, UAE 2009) that a breeding bird survey was required to inform an adequate

assessment of the impacts of the redevelopment at this location, to our knowledge this has not been undertaken.

We conclude that there is insufficient information to determine this application both in terms of the redevelopment proposals for the Quinetiq site which appears to be the justification for the road widening nor the assessment of potential impacts on the SPA, SINC and protected species.

REPRESENTATIONS

This application has been called to Planning Committee at the request of Cllr Winnington. There is also a deputation request from a resident.

71 objections to the proposal have been received raising the following issues:

- No justifiable reason for the proposal, road to nowhere;
- Intrudes onto the SINC, environmentally sensitive location;
- Impacting on Dartford Warbler habitat and other threatened species;
- Infrastructure needed before further residential development in area;
- Impacts on setting of scheduled ancient monument;
- Impacts on the Langstone Harbour Special Protection Area;
- Local Road network issues;
- 300 homes is too much development on Fraser Range;
- Fraser Range should be restored to its natural state;
- Contrary to adopted policy;
- Proposal will lead to a private enclave;
- Deceptive nature of the application;
- Inadequate consultation on planning application;
- Errors in assessment, inadequate assessment;
- Impact on trees on boundary with Southsea Leisure Park.

Two representations supporting the proposal have been received. The reasons for support include:

- The recreational use of the SINC by dog walkers precludes opportunities for ground nesting birds;
- The development of Fraser Range will be the subject of a separate planning application;
- To stop anti-social behaviour Fraser Range needs to be redeveloped, the road will only ever be built when Fraser Range is developed;
- Regeneration of Eastney is well over due;
- Collapsing sea defences need investment;
- Coastal land should be accessible for everyone to enjoy.

There have been a total of 73 responders.

COMMENT

The material planning consideration for the proposed road are:

- Whether the proposal would constitute sustainable development;
- Whether the proposal before the Council is capable of consideration in its current form;
- Whether there is a need for the development;
- Whether the proposal would result in harm to the environment.

Procedural Matters

Given the date upon which the application was received, the applicable Regulations are the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. These direct that where a development is an EIA Development (as defined), the developer must prepare an Environmental Statement: by Regulation 3, the LPA is prohibited from granting planning permission or subsequent consent for EIA development unless an EIA has been carried out in respect of that development, and that EIA has been taken into account by the LPA in making its decision.

EIA Development is defined within the Regulations as that which is either:

- (a) Schedule 1 development; or
- (b) Schedule 2 development likely to have significant effects on the environment by virtue of factors such as its nature, size or location.

The applicant has presented the proposal as a standalone project, and chose not to screen it the proposal, as it would not be an infrastructure project as defined by Schedule 2 of the Regulations.

Schedule 2 of the Regulations includes Infrastructure Projects, and specifically urban development projects where more than 1 hectare of urban development if not dwellinghouse development; or the development includes more than 150 dwellings; or the overall development exceeds 5 hectares.

The Fraser Range site has an area in the order of 5.8 hectares with the inclusion of the access road.

Whilst the applicant took a position, it is considered that the proposed road would serve the Fraser Range site and its future potential redevelopment. It is considered that in the absence of a full and complete proposal for both the road and any development it is intended to serve, it would be piecemeal to determine the proposal in isolation of any necessitating development, and as such the applicant was encouraged to withdraw the proposal as there is no need for the road in isolation of any development.

For reasons outside of the planning system, the applicant has not been able to withdraw the application to date, and as such this report will assess and determine the application in its current form. There are no planning applications before the LPA at this time which incorporate the Fraser Range site or the whole EIA project.

It is considered that the proposal is part of a project which would be an infrastructure project as set out in Schedule 2 of the Regulations, it is necessary to first screen the proposal to arrive at the opinion whether the project requires an environmental impact assessment.

Screening Opinion

Regulation 7 directs that where it appears to that the development in question has not been the subject of a screening opinion the receipt of the proposal is taken to be the same as a screening request being made.

It is considered that the proposal forms part of development that would fall within Schedule 2 of the Regulations, being EIA development. This associated development must be taken into account: Schedule 3 of the Regulations sets out the criteria for screening Schedule 2

development. The proposal is EIA development in terms of the characteristics of development, location of development, and types and characteristics of the potential impact.

The proposal cannot be considered in its current form, being only part of the whole development, and that the whole development would be EIA development. The application has not been presented as EIA development; it is not supported by an Environmental Statement assessing the whole of the proposal and all associated characteristics, potential impacts, or in combination effects.

Need for the Development

The planning application is accompanied by a Design and Access Statement that makes the case that the proposal is acceptable as the works seek to widen the existing road to allow for a formalised 2 lane carriageway with new pedestrian and cycle paths, improving safety for all highway users.

The existing road is unformed and is not part of the adopted highway network. The road provides access to an unsurfaced car park at the corner of the Protected Open Space which is located its most north-western corner adjacent to Fort Cumberland Road.

The existing road can be used to access Eastney Beach in this location; however this is not a marked or designated route for vehicles for this purpose. The road does not lead to any car park or turning area.

The existing road leads to Fraser Range and in the absence of a proposal to redevelop the site; there is no planning need for the development, or wider public benefit of improving the road.

Design of the Proposal

The proposed road has been designed to accommodate 16.5 metre articulated vehicle movement, with a 2.4 metre to 43 metre visibility splay. The proposal involves relocating the entrance to the car park to approximately 50 metres along the access road. The relocated car park access is proposed to create a safer road environment.

The width, design capacity, relocation of car park access, lighting, service strip and footway are all indicative of a road with trips, accessing a potential development. Putting aside the environmental impact regulations, the road would need to be designed to serve the development it accesses. There is no way of assessing the design of the proposed road and commenting on its adequacies without the full knowledge of the scale and nature of the development it will be serving.

The applicant's intentions to improve access in the location so as to enable or unlock a potential development site is noted, however the need first has to be established, and then the capacity required can help shape the proposed road design.

The application is accompanied by a Transport Note that states that the proposed road will be of sufficient width to allow 2-way HGV's to pass safely to enable possible future sea wall improvements to be considered and in the future could support the redevelopment of the Fraser Range site for up to 300 units.

The proposed road may have been over designed in the event the Fraser Range site does not realise the level of units which the Transport Note anticipates. These are matters for assessment at a future date with a future planning application, one not before the LPA at this time.

It is noted that Council's Highway Engineer has not raised objections to the proposal however states that the analysis of the local junctions and highway network would be assessed and considered as part of an application for the redevelopment of Fraser Range.

Heritage Considerations

The planning application was not accompanied by a Heritage Statement; however, one technically was not required. It is noted that the land the subject of the proposal is in close proximity to the scheduled monument of Fort Cumberland and associated listed assets.

Historic England have advised that the proposal is not considered likely to result in significant negative effect on the Fort, however that if permission is to be granted conditions should be imposed regarding potential undesignated archaeological remains.

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.

With the proposal before the LPA being limited to the widening of the access road to Fraser Range, the impacts to heritage assets is neutral, not being development proximate or of scale or type to give rise to a significant impact. Any redevelopment of Fraser Range would however need to be accompanied by an appropriate Heritage Statement investigating and assessing potential harm to listed assets.

In terms of the LPA's duty under Section 66, there is no further assessment considered necessary with this application.

Environmental Matters

The planning application is accompanied by an Ecological Assessment Report. The Ecological Assessment Report has thoroughly assessed the ecological interests of the site. The Portsmouth Local Plan has designated part of the land the subject of the application as protected open space, this land is also part of the Local Wildlife Site, the Fort Cumberland Site of Importance for Nature Conservation (SINC).

The loss of the strip of land that is part of the open space would be permanent and it is this policy aspect which is not reconciled in the Ecological Assessment Report. The assessment does identify the statutory and non-statutory designations and quantifies the area to be permanently loss from the Fort Cumberland Site of Importance for Nature Conservation to be 0.15 hectares.

The biodiversity significance of the loss of the 0.15 ha of the SINC is that half of that area is within the existing car park which does not contribute to the existing ecological value of the SINC. The survey of the remaining parts of the SINC to be permanently loss finds it to be of low intrinsic botanical value. The vegetation present is significantly degraded in floristics and structure, as a result of lack of management, past disturbance from recreational trampling and soil enrichment from dog walkers. There is no population of legally protected or national / regional plants of significant conservation importance in the area proposed to be a road.

A separate Arboricultural Assessment has been undertaken for the trees which define the boundary between the adjacent caravan park and the proposed road, confirming that no works to these trees will be required to enable the proposed access road.

Notwithstanding the findings of the Ecological Assessment Report for that land which forms this planning application, the LPA holds the view that the access road cannot be considered in isolation and that a full assessment of the likely impacts, in combination and cumulative effects should be undertaken for the EIA development as a whole.

It is noted that the Ecological Assessment Report recommended mitigation and conditions for the proposal should it be supported; however, Council's Ecological advisor would require more information at this stage to be able to complete an assessment. There is also the opinion that the provision of a footpath would not manage recreational patterns of usage in the locality.

The planning application is accompanied by a Lighting Assessment as the proposal includes the installation of lighting on the access road. As the site is in part and adjacent to a SINC and adjacent to a caravan park and residential properties, the assessment has been undertaken.

The assessment models the levels of obtrusive light and has regard for the ecological receptors, residents and caravan park users. The outcome from the assessment is that the lighting scheme is within the design limitations set out for rural, low district brightness. Lighting in the locality would be a matter that could be controlled by conditions.

The planning application is accompanied by a Ground Conditions, baseline opportunities and constraints report. The report indicates that there are no limiting factors to the construction of the proposed road, however it is recommended that an Explosive Ordnance Detection Engineer be commissioned to provide safety briefing of personnel and watching brief during construction. Ground conditions would not be a limiting factor for the development, rather a matter controlled by conditions.

The planning application is accompanied by a Flood Risk Assessment (FRA) as the far west end of the road is in Flood Zone 2. The majority of the road is in Flood Zone 1, having a low probability of flooding. The FRA states that the access road is proposed to service new residential development at Fraser Range, and as the access road to the site cannot be located elsewhere an Exception Test is not required. The FRA makes recommendations in relation to an Emergency Plan for the site. It is noted that the proposed new access road would not increase flood risk, does not detrimentally affect third parties and does not change the surface water drainage system. Flood risk as a result of the proposed access road design is not a limitation. Matters of flooding from storm events or coastal inundation, and sustainable urban drainage would be material considerations for the development as a whole.

Representations

There are a large number of representations on the planning application, which have raised concerns, some of which have been addressed in this report. Many of the objections questioned the need for the road, and the processing of the application, the extent of notification, site notices and the like. The application raised ambiguity around the development of Fraser Range and the future of the area which led to objections raising wider issues and concerns. These wider issues and concerns would in part be addressed by a future more comprehensive planning application for the Fraser Range site and access road combined, addressing and assessing all potential impacts.

Conclusion

Having regard for the supporting information which has accompanied the planning application, consultee comments and representations made, it is concluded that the proposed access road is not sustainable development. The proposal is part of development that would be Schedule 2 development for the purposes of the Regulations, and as such cannot be considered in isolation without the necessary supporting Environmental Statement assessing all of the potential environmental impacts.

The proposal has not substantiated wide public benefit which is necessary to support the permanent loss of protected open space. This may be achieved when considered as part of the development as a whole, however alone the access road has not substantiated the benefits.

Without knowing the scale of development which the proposed road is to serve and the impact of that established through a transport assessment, we cannot determine whether or not it would be sufficient to provide safe and suitable access to the site by all people or if improvements can be undertaken within the transport network to effectively mitigate the significant impacts of the development.

RECOMMENDATION Refuse

Conditions

The reasons for the conditions are:

- 1) The proposed access road would form an integral part of a wider project including the potential residential redevelopment of adjoining Fraser Range. The proposal is not accompanied by all of the necessary information to assess the potential environmental impact of the project as required by the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. In the absence of a full and complete proposal with all of the necessary supporting information, the consideration of the access road alone would not form a sustainable approach to development in the locality contrary to paragraphs 118 and 119 of the National Planning Policy Framework and to the Conservation of Habitats and Species Regulations (as amended).
- 2) The proposed development would lead to the permanent loss of 0.15 hectares of protected open space which, in the absence of demonstrable wider public benefit from the development, would harm the green infrastructure network in the city contrary to the provisions of PCS13 of the Portsmouth Plan.
- 3) Insufficient information is provided in respect of either the scale and nature of the development which the proposed road is to serve or the broader impact of that to establish whether or not it would be sufficient to provide safe and suitable access to the site by all people or if improvements can be undertaken within the transport network to effectively mitigate the significant impacts of the development as is required at paragraph 32 of the NPPF, by PSC16 and PCS17.

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 it was not considered that the harm arising from the proposal could be overcome and the application has been refused for the reasons outlined above.

50 HUDSON ROAD SOUTHSEA PO5 1HD**CHANGE OF USE FROM PURPOSES FALLING WITHIN A C3 (DWELLINGHOUSE) OR C4 (HOUSE IN MULTIPLE OCCUPATION) TO HOUSE IN MULTIPLE OCCUPATION FOR MORE THAN 6 PERSONS (SUI GENERIS)****Application Submitted By:**Thorns Young Ltd
FAO Mr Sam Appleton**On behalf of:**OMPD Ltd
FAO Mr James Oliver**RDD:** 16th February 2017**LDD:** 17th April 2017**SUMMARY OF MAIN ISSUES**

The determining issues for this application relate to the suitability of the proposed HMO 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 in respect of SPA mitigation, car and cycle parking.

The site

This application relates to a two-storey mid-terraced dwellinghouse located on the south side of Hudson Road. The site benefits from an enclosed rear garden and a small front forecourt.

The Proposal

The applicant seeks permission for a change of use from purposes falling within a C3 (dwelling house) or C4 (house in multiple occupation) to house in multiple occupation for more than 6 persons (Sui Generis).

Planning History

There is no relevant planning history for this site.

POLICY CONTEXT

In addition to the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include PCS13 (Transport), PCS20 (houses in multiple occupation) and PCS23 (Design and Conservation). The Parking Standards and houses in multiple occupation Supplementary Planning Documents would also be a material consideration.

CONSULTATIONS**Private Sector Housing**

This property would require to be licenced under Part 2, Housing Act 2004 and from the information provided with the application, including the specific room sizes, I have no adverse comments to make with regard to the bedroom or common areas. I do have some concerns

regarding the widths and overall sizes of the en-suite bathrooms within rooms 3, 4 and 6 and I would request a specific floor plan of these en-suite bathrooms, including the size and types of the amenities that will be provided to ensure we have adequate space between the amenities to allow for safe use of these bathrooms.

The single WC located on the ground floor would require a wash hand basin to be installed within the compartment and size and location of the WHB, should be provided by the applicant.

I would also like to ensure that the kitchen amenities provided within the property are:

1. Two conventional cookers (a combination Microwave may be used in lieu of second cooker).
2. One double bowl sink and integral drainer (a one bowl sink is acceptable where dishwasher is provided).
3. Two under counter refrigerator and a separate freezer or two equivalent combined fridge/freezer.
4. Four 500mm base units and two 1000mm wall units with doors or equivalent.
5. 2500mm (L) x 500mm (D) of clear usable work surface. This is in addition to any surface which is used by permanent electrical items.
6. Three twin sockets, located at least 150 mm above the work surface.

Highways Engineer

The property is located on Hudson Road, a residential road situated between Portsmouth city and Southsea town centres but as it is not within 800 m from a rail station it is not considered a highly accessible area. Hudson Road is situated with LB zone residents parking zone with visitors and non-permit holders entitled to 3 hours free parking, no return to zone within 4 hours.

To the west and south are a number of other RPZs which offer a few hours free unrestricted parking for visitors and non-residents. This results in the potential for this development to increase parking pressure in adjacent unrestricted areas to the east.

Parking

An HMO of this size would require 2 car parking and 4 cycle parking spaces but the application form included no information about either.

The existing use as C3 or C4 would require the same number of car and cycle parking spaces as that proposed. In this instance the existing class use would have had required the residents to apply for a parking permit with up to 3 permits able to be issued to the property, depending on capacity in the RPZ. If 2 cars were to be accommodated on street within the LB RPZ the situation would be no different to that for the previous use.

There is no information about cycle parking provision which should be to provide 4 secure, weatherproof parking spaces which must comply with the PCC Parking Standards and Transport Assessments SPD (July 2014).

As it stands, the Local Highways Authority do not raise an objection subject to a condition requiring the provision of secure, weatherproof cycle parking for 4 cycles prior to first occupation and retained thereafter, which should be compliant with the Parking Standards SPD.

Environmental Health

This consultation is with regard to residential use close to other use with potential for release of odour, noise, dust or air pollution.

The application location is predominantly residential with no commercial or industrial uses within at least 60 metres.

The plans show an increase in bedrooms from 4 to 6/7. Although this will result in a higher concentration of occupants we currently have no evidence to support the view that sui generis houses in multiple occupation (HMO) attract an increased number of noise complaints or are the

subject of regular enforcement action. In the absence of any such evidence, it is suggested that it would be difficult to argue that the proposed use can be inherently associated with noise when the alleged impacts occur as the result of the behaviour of individuals and not the behaviour of HMO residents as a whole.

As such, any attempt to mitigate the perceived issue or object to the proposed development on these grounds might be seen as inappropriate or excessive, particularly as such impacts will be difficult to quantify or predict in terms of the significant observed adverse effect level required by The National Planning Policy Framework and it is probably more appropriate to rely upon statutory noise nuisance legislation to deal with such issues.

REPRESENTATIONS

43 representations and deputations to speak at planning committee have been received objecting on the grounds of:

1. Application is invalid as property does not have a license or planning permission for use as a HMO and if it is not licensed, it could not lawfully have been used as a HMO and cannot claim 'grandfathered' C4 status as it has not been in continuous lawful C4 use since 1st November 2011;
2. Approximately 70% of properties in Hudson Road are in use as HMOs, seven times the limited in the HMO SPD and inconsistent with its aims;
3. PCC Planning Committee set precedent on 14th September 2016 for refusing similar sui generis uses on the grounds of unsustainable communities;
4. Unsustainable pressure on local services and further increases in HMO intensity would have a massive negative impact on residential amenity with regards to noise, litter, car parking, fly tipping and infrastructure such as sewage and drainage;
5. Amend HMO SPD to not increase HMO density further and a change of policy is required;
6. Surrounding roads are full of HMOs;
7. High impact of HMOs blocks the housing market for first time buyers (families) moving into the area and prevents residents who live their selling their homes;
8. No audit or cross-checking between planning and licensing;
9. C4 planning should terminate on sale of property, which would allow area to return to family communities they once served;
10. PCC aim to achieve balance of development with local residents whose quality of life is being compromised;
11. Living density in Southsea rising to unacceptably high levels;
12. From a residents perspective it is almost impossible to resist the pressure and temptations of development, affecting far in excess of what the road can actually support;
13. High numbers of HMOs as evidenced by PCC website;
14. Daily competition for parking spaces. Carers and visitors can struggle to park and this is even under the LB parking scheme which should make matters better;
15. More people living in road increases pressure and deteriorates local area;
16. Rising density further than what Hudson Road can support risk incrementally increasing the frequency and severity of anti-social behaviour, disturbance and possibly crime;
17. Application should be rejected as the scheme would adversely affect the residential amenity of all who currently reside in the vicinity;
18. Plans suggest property would not be occupied as a family dwellinghouse and proposal seeks to develop what Hudson Road cannot support; and,
19. Proposal seeks development that would immediately result in an unacceptably high density, both on micro and macro scales.

COMMENT

The determining issues for this application relate to the suitability of the proposed HMO 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 in respect of SPA mitigation, car and cycle parking.

Principle of the use

Planning permission is sought for the use of the property for a six or more persons House in Multiple Occupation. The former owner has provided evidence in the form of tenancy agreements although these records are not complete and lack continuity. The owners have submitted a statutory declaration confirming the property has been used continuously as a HMO since 1st November 2011. Council tax records are inconclusive and neither support or confirm the use within Class C4. The property had a license but this was revoked as the property changed hands and it has not been possible to obtain any open source information.

On the balance of probabilities and in the absence of any sound conflicting evidence, it is considered that the property has a lawful use as a HMO within Class C4 based on the substantial weight given to the submitted and signed statutory declaration.

Having regard to the current lawful use as falling within Class C4 HMO or Class C3 (Dwellinghouse), the proposed change of the use to a larger HMO (Sui Generis) would not result in an overall change to the balance of uses in the context of the surrounding area and would therefore, be in accordance with policy PCS20 of the Portsmouth Plan and the supporting HMO SPD.

Standard of accommodation

The licensing process would ensure adequate fire safety measures and could provide assistance should the property not be managed appropriately. In addition, other legislation is available beyond the planning system to address concerns relating to any anti-social behaviour at the property.

In terms of internal living conditions, the property would benefit from the following size standards:

Bedroom number	Size	En-suite size	total floor area:
1	8.82m ²	3.75m ²	12.57m ²
2	9.3m ²	3.58m ²	12.89m ²
3	12.96m ²	2.08m ²	15.04m ²
4	8.37m ²	2.08m ²	10.45m ²
5	8.26m ²	2.66m ²	10.92m ²
6	8.08m ²	1.82m ²	9.9m ²
7	11.54m ²	None	11.54m ²

Lounge (rear): 10.71m²

Lounge (front): 11.77m²

Kitchen: 8.7m²

Ground floor WC: 1.44m²

The City Council Private Sector Housing Team (PSHT) have considered the submitted drawings and advise that each of the proposed bedrooms would meet the minimum size standards required (6.52sq.m.) for a single occupant under the Housing Act 2004 and the relevant guidance documents. Some concerns have been raised regarding the widths and sizes and facilities of bathrooms within the property. Comments have also suggested guidance on the kitchen requirements for future occupiers. Based on the comments from PSHT, it is considered that these matters would not form a sustainable reason for refusal in the determination of this application and the applicant could be advised by way of an informative.

Whilst the LPA is not bound by the requirements of the Housing Act 2004, the planning system will generally seek to improve upon the bare minimum (as demonstrated by the minimum bedroom floor area set out within the Technical Housing Standards at 7.5sq.m.) to provide a

good quality of living environment for future occupants, whether that be within a dwellinghouse (Class C3) or within shared accommodation (Class C4 & Sui Generis HMOs). It could be argued that the provision of a good standard of living environment and sufficient space within bedrooms is more important within shared houses where the only private and secure facilities to store the occupiers' possessions or obtain privacy would be within their private bedrooms.

Therefore, in light of the assessment of the accommodation above, it is considered that the proposed use of the property by six or more individuals would provide an adequate standard of living accommodation for future occupiers for a single person in each room.

It is accepted that the applicant could use one of the ground floor bedrooms to provide additional communal facilities within the building. However, on the basis that none of the remaining bedrooms within the building are considered to be of a sufficient size to allow for double occupation, such a scenario would result in the occupation of the building by 6 individuals, for which it already has permission. The LPA has not therefore, sought amendments to the submitted drawings to provide additional communal facilities.

Each of the proposed bedrooms would have an acceptable access to natural light and outlook with the lounge/kitchen area being serviced by an access door into the rear garden and a window.

Impact on residential amenity

The proposal involves the use of a ground floor lounge to provide an additional bedroom to create a 7 bed HMO. Whilst the accommodation of additional occupants would lead to a more intensive occupation of property that could result in the transmission of noise and disturbance to the adjoining occupiers, regard must be made to the lawful use of the property that allows occupation by up to six unrelated persons or by a family of an unrestricted size (by implementing its permitted development rights).

In considering an allowed appeal (October 2012) relating to this issue at 12 Beatrice Road (APP/Z1775/A/12/2177272) the Inspector stated that 'I do not consider that one additional resident would amount to an over-intensive use of the property. Having regard to the site's urban location and the density of housing in the area, such a small increase in occupancy would not have a significant impact on the intensity of activity in the surrounding area thereby affecting its character and appearance. Equally, an increase from six persons to seven would not result in a use demonstrably different from that already authorised. Any increase in activity, noise or disturbance is unlikely to be significant.'

A further allowed appeal (December 2012) relating to very similar issues at a property at 74 Telephone Road (APP/Z1775/A/12/2177629) stated that "the comings and goings, internal activity and resultant noise associated with one more person are not significant compared to the impact of the six that could reside in the property anyway". However, the Inspector did recognise that "if there were more than seven residents this would, of necessity, involve either the sharing of bedrooms or a significant reduction in the extent of the communal space to create additional bedrooms". The Inspector determined that "in these circumstances such a use would have an appreciably greater potential for resulting in undue noise and disturbance".

Having regard to comments received relating to over-intensification of the use and further imbalance the local community, the Planning Inspectorate following an appeal in September 2016 relating to 37 Margate Road (APP/Z1775/W/16/3159992) concluded that: "having regard to the site's urban location and the density of housing in the area, any increase in occupancy at the property derived from such a small increase in bedroom accommodation would not be materially discernible when considered in the context of the existing activity in the surrounding urban area. In reaching this conclusion I have carefully considered the representations from local residents, however, I am not persuaded that sufficient evidence has been submitted to substantiate that

the proposed 1 additional bedroom, would result in material harm to their living conditions or unbalance the local community."

In light of the decisions above, it is considered that the occupation of the property by seven individuals rather than six would not result in any significant increase in noise and disturbance, and is unlikely to have a significant additional impact on the occupiers of adjoining or nearby properties.

Stepping away from the planning merits of the proposal, the use of the property as a Sui Generis HMO would also require a licence from the City Council's Private Sector Housing Team who would ensure adequate size standards, sanitary facilities and fire safety measures for future residents, and could provide assistance should the property not be managed appropriately. Having sought clarification with the Private Sector Housing Team, they have agreed that the proposal in its current format would be capable of attaining a valid licence for the occupation of 7 un-related individuals subject to some minor alterations to the floor plans.

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 the current lawful use of the property, the view of the planning Inspector detailed above and the sites proximity to local shops, services and transport facilities, it is considered that an objection on car parking standards could not be sustained. In previous applications, it has been considered that as a property already benefits from a lawful use as a HMO it would not be reasonable to impose conditions requiring the provision of cycle or refuse storage facilities.

Solent Special Protection Areas

The Conservation of Habitats and Species Regulations 2010 [as amended] and the Wildlife and Countryside Act 1981 place duties on the Council to ensure that the proposed development would not have a significant effect on the interest features for which Portsmouth Harbour is designated, or otherwise affect protected species. The Portsmouth Plan's Greener Portsmouth policy (PCS13) sets out how the Council will ensure that the European designated nature conservation sites along the Solent coast will continue to be protected.

The Solent Special Protection Areas Supplementary Planning Document (SPD) was adopted in April 2014. It has been identified that any development in the city which is residential in nature will result in a significant effect on the Special Protection Areas (SPAs) along the Solent coast. Paragraph 3.3 of the SPD states: 'Mitigation will generally not be sought from proposals for changes of use from dwellinghouses to Class C4 Houses in Multiple Occupation (HMOs) as there would not be a net increase in population. A change of use from a Class C4 HMO or a C3 dwellinghouse to a sui generis HMO is considered to represent an increase in population equivalent to one unit of C3 housing, thus resulting in a significant effect and necessitating a mitigation package to be provided'. The SPD sets out how development schemes can provide a mitigation package to remove this effect and enable the development to go forward in compliance with the Habitats Regulations.

Based on the methodology in the SPD, an appropriate scale of mitigation would be calculated as £181. As a result, it is considered that with mitigation and payment through an agreement under S111 of the Local Government Act there would not be a significant effect on the SPAs. The requirement for this payment to secure mitigation would be both directly related to the development and be fairly and reasonably related in scale to the development.

RECOMMENDATION A: That delegated authority be granted to the Assistant Director of Culture and City Development to grant Conditional Permission subject to first securing a planning obligation or an agreement for payment of a financial contribution of £181 to mitigate the impact of the proposed residential development on the Solent Special Protection Areas.

RECOMMENDATION B: That delegated authority be granted to the Assistant Director of Culture and City Development to refuse planning permission if the agreement referred to in Recommendation A have not been secured within three weeks of the date of the resolution pursuant to Recommendation A.

RECOMMENDATION Subject to Legal Agreement(s)

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: Block Plan dated 16.02.2017 scale 1:500 and PG1110.163 (Proposed Floor Plans)

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.

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.

18 BATH ROAD SOUTHSEA PO4 0HT**CHANGE OF USE FROM HOUSE IN MULTIPLE OCCUPATION (CLASS C4) TO PURPOSES FALLING WITHIN CLASS C3 (DWELLING HOUSE) OR CLASS C4 (HOUSE IN MULTIPLE OCCUPATION)****Application Submitted By:**

Mr Enrique Granell Mena

On behalf of:

Mr Enrique Granell Mena

RDD: 20th February 2017**LDD:** 10th May 2017**SUMMARY OF MAIN ISSUES**

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 material storage.

The site

This application relates to a two-storey mid-terraced dwellinghouse located on the east side of Bath Road. The property benefits from a small front forecourt and an enclosed rear garden.

The proposal

The applicant seeks permission for a change of use from house in multiple occupation (Class C4) to purposes falling within Class C3 (dwelling house) or Class C4 (house in multiple occupation).

Planning history

There is no relevant planning history for this site.

POLICY CONTEXT

In addition to the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS17 (Transport), PCS20 (houses in multiple occupation) and PCS23 (Design and Conservation). The Parking Standards Supplementary Planning Document would also be a material consideration.

CONSULTATIONS

None.

REPRESENTATIONS

Councillor Hunt has requested this application be determined by the planning committee.

One other representation was received but has been withdrawn once it was explained this application is not for an additional HMO, but to allow the property to change between a Class C3 or Class C4.

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 material 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 applicant has provided evidence in the form of signed tenancy agreements to demonstrate that the property was in use as a HMO prior to the 1st November 2011 and has continued to be used as such until present.

Policy PCS20 (Houses in multiple occupation (HMOs): ensuring mixed and balanced communities) 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. This is supported by the guidance within the National Planning Policy Framework which seeks to 'deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities'.

However, notwithstanding the provisions of the policies detailed above, it is considered that by virtue of the property's current lawful use as a Class C4 HMO, the introduction of a level of flexibility that would enable an interchange between Class C3 and C4 uses would not result in an overall change to the balance of uses in the context of the surrounding area. It is therefore considered that this application would be capable of support.

Having regard to the current lawful use, it is also considered that the use of the property either as a HMO by up to six persons or the occupation of the property as a dwellinghouse (Class C3) would not significantly alter the living conditions of the occupiers of neighbouring properties or put significant increased pressure on local facilities.

The application site does not benefit from off-street and the constraints of the site are such that none can be provided. Given that the site is located within a short walk of local transport links, shops and services, and is currently in use as a Class C4 HMO, it is considered that an objection on car parking standards could not be sustained.

As the property is already in use as a HMO, it is not considered to be reasonable to impose conditions requiring the provision and retention of bicycle and refuse storage facilities.

RECOMMENDATION Conditional Permission

Condition

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: Location Plan dated 14.03.2017 scale 1:1250 and Floor Plan.

The reason for the condition is:

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

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.

50 WAVERLEY ROAD SOUTHSEA PO5 2PP**CHANGE OF USE FROM PURPOSES FALLING WITHIN CLASS C4 (HOUSE IN MULTIPLE OCCUPATION) TO 7 BEDROOM HOUSE IN MULTIPLE OCCUPATION (SUI GENERIS)****Application Submitted By:**

New Era Agency Ltd
FAO Mr Chris Broyd

On behalf of:

Mrs Viki Spencer
C/O New Era Agency

RDD: 2nd March 2017**LDD:** 28th April 2017**SUMMARY OF MAIN ISSUES**

The determining issues for this application relate to the suitability of the proposed HMO 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 in respect of SPA mitigation, car and cycle parking.

The site

This application relates to a two-storey dwellinghouse with accommodation in the roof located on the east side of Waverley Road opposite Waverley Gardens. The property is setback from the footway and benefits from a front forecourt and an enclosed rear garden. The property is within an indicative area of flooding (zone three).

The proposal

The applicant seeks permission for a change of use from purposes falling within Class C4 (house in multiple occupation) to 7 bedroom house in multiple occupation (sui generis).

Planning history

The relevant planning history for this site relates to a change of use from guesthouse to 5 bedsitting room units, 1 flatlet and ancillary office that was granted conditional permission in May 1984 ref. A*30253/A.

POLICY CONTEXT

In addition to the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS12 (Flood Risk), PCS13 (A Greener Portsmouth), PCS14 (A Healthy City), PCS17 (Transport), PCS20 (Houses in Multiple Occupation) and PCS23 (Design and Conservation). The Parking Standards, Houses in Multiple Occupation and Solent Special Protection Areas Supplementary Planning Documents (SPDs) would also be a material consideration.

CONSULTATIONS

Highways Engineer

Waverley Road is within a residential area and just south of Albert Road, a local retail area with Southsea local shopping centre to the south west. While it is within 400 m of bus services on Albert Road it is over 1.3 km from the nearest rail station.

The applicant has not provided any vehicle parking details and has referred to cycle parking in a storage area to the rear but has not provided any further information in the form of drawings or photographs to enable me to assess whether it is acceptable.

An HMO of this size is required to provide 2 vehicle and 4 cycle parking spaces. The existing use as a slightly smaller HMO would also have been required to provide 2 vehicle parking spaces and 4 cycle parking spaces to comply with the PCC Parking Standards & Transport Assessments SPD (July 2014). As a consequence this application would not increase the current car parking shortfall associated with the site.

As the application stands, an objection on highway grounds is not raised subject to a condition requiring the provision of 4 secure, weatherproof cycle parking spaces to be submitted and approved.

REPRESENTATIONS

One representation has been received objecting to the proposal on the grounds of:

- (a) increased pressure on parking;
- (b) houses being split into flats has caused many issues on Waverley Road; and
- (c) having people in the house who don't know each other can cause issues in the house and street.

The applicant has submitted a supporting statement that draws the committee's attention to the following three appeals:

APP/Z1775/W/16/3159993 80 Margate Road:

'The inspectorate stated that as the appeal property already has consent for a C4 use, the proposal could not result in an increase in concentration of HMOs in the City. Furthermore, having regard to the site's urban location and the density of housing in the area, any increase in occupancy at the property derived from such a small increase in bedroom accommodation would not be materially discernable when considered in the context of the existing activity in the surrounding urban area.'

An awards of costs was awarded against the council.

48 Laburnum Road - APP/Z1775/W/16/3147863 - Section 22 states:

A number of nearby residents have brought to my attention the councils Standards for houses in Multiple Occupation dated May 2014 (The Standards) The Standards relate to the provisions of section 234 of the Housing Act 2004 as amended and associated regulations, a separate legal regime to planning...Therefore whilst I note the representations that have been made on this issue, for the above reasons for me to comment on whether the proposal complies with the Standards would be both Ultra Vires (beyond one's legal power or authority) and procedurally inappropriate.

APP/Z1775/W/16/3159992 referring to 37 Margate Road:

Furthermore, having regard to the site's urban location and the density of housing in the area, any increase in occupancy at the property derived from such a small increase in bedroom

accommodation would not be materially discernible when considered in the context of the existing activity in the surrounding urban area. In reaching this conclusion I have carefully considered the representations from local residents, however, I am not persuaded that sufficient evidence has been submitted to substantiate that the proposed 1 additional bedroom, would result in material harm to their living conditions or unbalance the local community. Having come to the conclusions above, it follows that the proposal would not conflict with Policy PCS20 of The Portsmouth Plan.

COMMENT

The determining issues for this application relate to the suitability of the proposed HMO 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 in respect of SPA mitigation, car and cycle parking.

Principle

Planning permission is sought for the use of the property as a seven bedroom, seven person Sui Generis House in Multiple Occupation. The applicant has submitted evidence in the form of a signed statutory declaration confirming that the property has been used continuously as a HMO since September 1996 for five students. The Council's tax records the property has been registered as student discounted since 2009 although they do not indicate the level of occupation at the property. Based on the substantial legal weight that is given to statutory declarations and in the absence of any conflicting information, it is considered the lawful use of the property is within Class C4 (house in multiple occupation).

Having regard to the current lawful use within Class C4 HMO, the proposed change of the use to a larger sui generis HMO Sui Generis would not result in an overall change to the balance of uses in the context of the surrounding area and would therefore, be in accordance with policy PCS20 of the Portsmouth Plan and the supporting HMO SPD i.e. the 10% threshold does not apply.

Impact on residential amenity

The proposal involves the use of a ground floor room to create an additional bedroom that is presently used for storage. Whilst the accommodation of additional occupants would lead to a more intensive occupation of property that could result in the transmission of noise and disturbance to the adjoining occupiers, regard must be made to the lawful use of the property that allows occupation by up to six unrelated persons or by a family of an unrestricted size (by implementing its permitted development rights to change the use back to Class C3).

Regard must be given to recent appeal decisions where the council has lost a number of applications, following committee overturns, in relation to noise and disturbance. In considering an allowed appeal (October 2012) relating to this issue at 12 Beatrice Road (APP/Z1775/A/12/2177272) the Inspector stated that 'I do not consider that one additional resident would amount to an over-intensive use of the property. Having regard to the site's urban location and the density of housing in the area, such a small increase in occupancy would not have a significant impact on the intensity of activity in the surrounding area thereby affecting its character and appearance. Equally, an increase from six persons to seven would not result in a use demonstrably different from that already authorised. Any increase in activity, noise or disturbance is unlikely to be significant.'

A further allowed appeal (December 2012) relating to very similar issues at a property at 74 Telephone Road (APP/Z1775/A/12/2177629) stated that "the comings and goings, internal activity and resultant noise associated with one more person are not significant compared to the impact of the six that could reside in the property anyway". However, the Inspector did recognise that "if there were more than seven residents this would, of necessity, involve either the sharing

of bedrooms or a significant reduction in the extent of the communal space to create additional bedrooms". The Inspector determined that "in these circumstances such a use would have an appreciably greater potential for resulting in undue noise and disturbance".

Having regard to comments received relating to over-intensification of the use and further imbalance the local community, the Planning Inspectorate following an appeal in September 2016 relating to 37 Margate Road (APP/Z1775/W/16/3159992) concluded that: "having regard to the site's urban location and the density of housing in the area, any increase in occupancy at the property derived from such a small increase in bedroom accommodation would not be materially discernible when considered in the context of the existing activity in the surrounding urban area. In reaching this conclusion I have carefully considered the representations from local residents, however, I am not persuaded that sufficient evidence has been submitted to substantiate that the proposed 1 additional bedroom, would result in material harm to their living conditions or unbalance the local community."

In light of the decisions above, it is considered that the occupation of the property by seven individuals rather than six is similar in all respects and would not result in any significant increase in noise and disturbance and is unlikely to have a significant additional impact on the occupiers of adjoining or nearby properties.

Standard of accommodation

Stepping away from the planning merits of the proposal, the use of the property as a Sui Generis HMO would also require a licence from the City Council's Private Sector Housing Team who would ensure adequate size standards, sanitary facilities and fire safety measures for future residents, and could provide assistance should the property not be managed appropriately.

In terms of internal living conditions, the property would benefit from the following size standards:

Ground floor rooms	Floor area m2
Kitchen	13.12
Study area	13.76
Shower room	4.19
Middle Bedroom	10.78
Front middle Bedroom	16.52
Communal room	15.61

First floor rooms	Floor area m2
Bedroom rear	17.6
WC	3.08
Bath Room	7.55
Bedroom middle	16.48
Bedroom front	20.72

Second floor room	Floor area m2
Bedroom rear	7.49
Bedroom front	18.51

Having visited the property, each of the rooms would have an acceptable standard of light and outlook and there is acceptable floor and storage space in each room. At the time of writing this report, no comments have presently been received from the private sector housing team. The property currently holds a license for 6 people.

Highways/Parking

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 the current lawful use of the property, the view of the planning Inspectors detailed above and the sites proximity to the Albert Road District Centre (within 260 metres) and its associated provisions of shops, services and transport facilities, it is considered that an objection on car parking standards could not be sustained. In previous applications, it has been considered that as a property already benefits from a lawful use as a HMO it would not be reasonable to impose conditions requiring the provision of cycle or refuse storage facilities.

Waste

Although the floor plans do not indicate a dedicated area for the storage of waste, the property benefits from a front forecourt and extensive storage areas to the rear of the property that could be used to store refuse/recycling materials. Given the current lawful use of the property within Class C4, it is considered that it would not be reasonable to impose conditions requiring refuse storage facilities.

Flooding

Portsmouth is at risk of flooding from a variety of sources. Flooding from the sea could potentially have the most catastrophic impact in Portsmouth, particularly if this is as a result of a breach in the flood defences. The property is located within an indicative area of flooding in zone three. Areas within flood zone 3 have been shown to be at a 0.5% or greater probability of flooding from the sea.

In some circumstances, the local planning authority should apply the sequential test that aims to steer new development toward areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for that development in areas of lower probability of flood risk. However, the sequential test is not required if:

- (a) development is a minor development; and/or,
- (b) development involves a change of use (e.g. from commercial to residential) unless your development is a caravan, camping chalet, mobile home or park home site.

The creation of one additional bedroom in the property is not considered to increase the risk of flooding at this site or in the immediate area.

Solent Special Protection Areas

The Conservation of Habitats and Species Regulations 2010 [as amended] and the Wildlife and Countryside Act 1981 place duties on the Council to ensure that the proposed development would not have a significant effect on the interest features for which Portsmouth Harbour is designated as a Special Protection Area, or otherwise affect protected habitats or species. The Portsmouth Plan's Greener Portsmouth policy (PCS13) sets out how the Council will ensure that the European designated nature conservation sites along the Solent coast will continue to be protected.

The Solent Special Protection Areas Supplementary Planning Document (SPD) was adopted in April 2014. It has been identified that any development in the city which is residential in nature will result in a significant effect on the Special Protection Areas (SPAs) along the Solent coast. Paragraph 3.3 of the SPD states: 'Mitigation will generally not be sought from proposals for changes of use from dwellinghouses to Class C4 Houses in Multiple Occupation (HMOs) as there would not be a net increase in population. A change of use from a Class C4 HMO or a C3 dwellinghouse to a sui generis HMO is considered to represent an increase in population equivalent to one unit of C3 housing, thus resulting in a significant effect and necessitating a

mitigation package to be provided'. The SPD sets out how development schemes can provide a mitigation package to remove this effect and enable the development to go forward in compliance with the Habitats Regulations.

Based on the methodology in the SPD, an appropriate scale of mitigation would be calculated as £181. As a result, it is considered that with mitigation and payment through an agreement under S111 of the Local Government Act there would not be a significant effect on the SPAs. The requirement for this payment to secure mitigation would be both directly related to the development and be fairly and reasonably related in scale to the development.

RECOMMENDATION A: That delegated authority be granted to the Assistant Director of Culture and City Development to grant Conditional Permission subject to first securing a planning obligation or an agreement for payment of a financial contribution of £181 to mitigate the impact of the proposed residential development on the Solent Special Protection Areas.

RECOMMENDATION B: That delegated authority be granted to the Assistant Director of Culture and City Development to refuse planning permission if the agreement referred to in Recommendation A have not been secured within two weeks of the date of the resolution pursuant to Recommendation A.

RECOMMENDATION Subject to Legal Agreement(s)

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 dated 21.04.2015 scale 1:1250 and Ground, First and Second Floor Plans.

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.

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.

6 WESTERN TERRACE PORTSMOUTH PO2 8JX**CHANGE OF USE FROM PURPOSES FALLING WITHIN CLASS C4 (HOUSE IN MULTIPLE OCCUPATION) OR CLASS C3 (DWELLING HOUSE) TO 7 BEDROOM HOUSE IN MULTIPLE OCCUPATION (SUI GENERIS)****Application Submitted By:**

New Era Agency Ltd
FAO Mr Chris Broyd

On behalf of:

Mr David Manchester
C/O New Era Agency Ltd

RDD: 7th March 2017

LDD: 3rd May 2017

SUMMARY OF MAIN ISSUES

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, the storage of refuse and recyclable materials, SPA mitigation and whether it would impact on the character and appearance of the conservation area.

The Site

This application relates to a two-storey mid-terraced dwellinghouse located on the east side of Western Terrace which is a pedestrian only access way. The area is comparatively verdant to others areas of the City, although there is a four storey block of flats to the north of this terrace. The property is within an indicative area of flooding (zone three).

The Proposal

The applicant seeks permission for a change of use from purposes falling within Class C4 (house in multiple occupation) or Class C3 (dwelling house) to 7 bedroom house in multiple occupation (sui generis).

Relevant Planning History

Conditional permission was granted in August 2016 for change of use from dwelling house (Class C3) to purposes falling within Class C4 (house in multiple occupation) or Class C3 (dwelling house) ref.16/01098/FUL at planning committee in August 2016.

POLICY CONTEXT

In addition to the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS12 (Flood Risk), PCS17 (Transport), PCS20 (Houses in Multiple Occupation) and PCS23 (Design and Conservation). The Parking Standards Supplementary Planning Document would also be a material consideration.

CONSULTATIONS

Highways Engineer

None.

REPRESENTATIONS

Two representations have been received objecting on the grounds of:

1. Previously objected and it made no difference;
2. It is not accurately recorded how many HMOs there are;
3. Family home should not be turned into 6/7 bedsits;
4. Council does not care who occupies the property as long as people are homed;
5. It is bad enough living next door to six people and making it 7 will make it even worse;
6. Walls are so thin you can hear everything;
7. Property could be occupied by 12 plus persons;
8. Parking will become even worse;
9. Harder to sell homes in the future; and,
10. Terrace used to be a nice place to live and this will further change the area.

COMMENT

The determining issues for this application relate to the suitability of the proposed HMO 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 in respect of SPA mitigation, car and cycle parking.

Principle

Planning permission is sought for the use of the property as a seven bedroom, seven person Sui Generis House in Multiple Occupation. The applicant has submitted evidence in the form of a signed statutory declaration confirming that the property has been used continuously as a HMO since September 1996 for five students. The Council's tax records the property has been registered as student discounted since 2009 although they do not indicate the level of occupation at the property. Based on the substantial legal weight that is given to statutory declarations and in the absence of any conflicting information, it is considered the lawful use of the property is within Class C4 (house in multiple occupation).

Having regard to the current lawful use within Class C4 HMO, the proposed change of the use to a larger sui generis HMO Sui Generis would not result in an overall change to the balance of uses in the context of the surrounding area and would therefore, be in accordance with policy PCS20 of the Portsmouth Plan and the supporting HMO SPD i.e. the 10% threshold does not apply.

Impact on residential amenity

The proposal involves the use of a dormer extension on the rear roof slope to create an additional bedroom that is presently used for storage. Whilst the accommodation of additional occupants would lead to a more intensive occupation of property that could result in the transmission of noise and disturbance to the adjoining occupiers, regard must be made to the lawful use of the property that allows occupation by up to six unrelated persons or by a family of an unrestricted size (by implementing its permitted development rights to change the use back to Class C3).

Regard must be given to recent appeal decisions where the council has lost a number of applications, following committee overturns, in relation to noise and disturbance. In considering an allowed appeal (October 2012) relating to this issue at 12 Beatrice Road (APP/Z1775/A/12/2177272) the Inspector stated that 'I do not consider that one additional

resident would amount to an over-intensive use of the property. Having regard to the site's urban location and the density of housing in the area, such a small increase in occupancy would not have a significant impact on the intensity of activity in the surrounding area thereby affecting its character and appearance. Equally, an increase from six persons to seven would not result in a use demonstrably different from that already authorised. Any increase in activity, noise or disturbance is unlikely to be significant.'

A further allowed appeal (December 2012) relating to very similar issues at a property at 74 Telephone Road (APP/Z1775/A/12/2177629) stated that "the comings and goings, internal activity and resultant noise associated with one more person are not significant compared to the impact of the six that could reside in the property anyway". However, the Inspector did recognise that "if there were more than seven residents this would, of necessity, involve either the sharing of bedrooms or a significant reduction in the extent of the communal space to create additional bedrooms". The Inspector determined that "in these circumstances such a use would have an appreciably greater potential for resulting in undue noise and disturbance".

Having regard to comments received relating to over-intensification of the use and further imbalance the local community, the Planning Inspectorate following an appeal in September 2016 relating to 37 Margate Road (APP/Z1775/W/16/3159992) concluded that: "having regard to the site's urban location and the density of housing in the area, any increase in occupancy at the property derived from such a small increase in bedroom accommodation would not be materially discernible when considered in the context of the existing activity in the surrounding urban area. In reaching this conclusion I have carefully considered the representations from local residents, however, I am not persuaded that sufficient evidence has been submitted to substantiate that the proposed 1 additional bedroom, would result in material harm to their living conditions or unbalance the local community."

In light of the decisions above, it is considered that the occupation of the property by seven individuals rather than six would not result in any significant increase in noise and disturbance and is unlikely to have a significant additional impact on the occupiers of adjoining or nearby properties.

Standard of accommodation

Stepping away from the planning merits of the proposal, the use of the property as a Sui Generis HMO would also require a licence from the City Council's Private Sector Housing Team who would ensure adequate size standards, sanitary facilities and fire safety measures for future residents, and could provide assistance should the property not be managed appropriately.

In terms of internal living conditions, the property would benefit from the following size standards:

Area of property	Floor area m2
Bed 1	13.72
Bed 2	7.04
Bed 3	6.67
Bed 4	7.84
Bed 5	9.38
Bed 6	9.53
Bed 7	6.25
GF shower/toilet	3.10
FF shower/toilet	3.15
Lounge/kitchen	20.44
Lounge rear	10.71
Lounge front	11.77
Kitchen	8.7
Ground floor WC	1.44

Having visited the property, each of the rooms would have an acceptable standard of light and outlook and there is acceptable floor and storage space in each room. At the time of writing this report, no comments have presently been received from the private sector housing team.

Highways/Parking

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 the current lawful use of the property, the view of the planning Inspectors detailed above and the sites proximity to the Albert Road District Centre (within 260 metres) and its associated provisions of shops, services and transport facilities, it is considered that an objection on car parking standards could not be sustained. In previous applications, it has been considered that as a property already benefits from a lawful use as a HMO it would not be reasonable to impose conditions requiring the provision of cycle or refuse storage facilities.

Waste

Although the floor plans do not indicate a dedicated area for the storage of waste, the property benefits from a front forecourt and extensive storage areas to the rear of the property that could be used to store refuse/recycling materials. Given the current lawful use of the property within Class C4, it is considered that it would not be reasonable to impose conditions requiring refuse storage facilities.

Solent Special Protection Areas

The Conservation of Habitats and Species Regulations 2010 [as amended] and the Wildlife and Countryside Act 1981 place duties on the Council to ensure that the proposed development would not have a significant effect on the interest features for which Portsmouth Harbour is designated as a Special Protection Area, or otherwise affect protected habitats or species. The Portsmouth Plan's Greener Portsmouth policy (PCS13) sets out how the Council will ensure that the European designated nature conservation sites along the Solent coast will continue to be protected.

The Solent Special Protection Areas Supplementary Planning Document (SPD) was adopted in April 2014. It has been identified that any development in the city which is residential in nature will result in a significant effect on the Special Protection Areas (SPAs) along the Solent coast. Paragraph 3.3 of the SPD states: 'Mitigation will generally not be sought from proposals for changes of use from dwellinghouses to Class C4 Houses in Multiple Occupation (HMOs) as there would not be a net increase in population. A change of use from a Class C4 HMO or a C3 dwellinghouse to a sui generis HMO is considered to represent an increase in population equivalent to one unit of C3 housing, thus resulting in a significant effect and necessitating a mitigation package to be provided'. The SPD sets out how development schemes can provide a mitigation package to remove this effect and enable the development to go forward in compliance with the Habitats Regulations.

Based on the methodology in the SPD, an appropriate scale of mitigation would be calculated as £181. As a result, it is considered that with mitigation and payment through an agreement under S111 of the Local Government Act there would not be a significant effect on the SPAs. The requirement for this payment to secure mitigation would be both directly related to the development and be fairly and reasonably related in scale to the development.

RECOMMENDATION A: That delegated authority be granted to the Assistant Director of Culture and City Development to grant Conditional Permission subject to first securing a planning obligation or an agreement for payment of a financial contribution of £181 to mitigate the impact of the proposed residential development on the Solent Special Protection Areas.

RECOMMENDATION B: That delegated authority be granted to the Assistant Director of Culture and City Development to refuse planning permission if the agreement referred to in Recommendation A have not been secured within two weeks of the date of the resolution pursuant to Recommendation A.

RECOMMENDATION Subject to Legal Agreement(s)

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 dated 20.06.2016 scale 1:1250 and PG 1076 16 Rev A (Loft Conversion and Internal Works).

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.

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.

06

17/00435/FUL

WARD:ST THOMAS

7 MONTGOMERIE ROAD SOUTHSEA PO5 1EB

CHANGE OF USE FROM HOUSE IN MULTIPLE OCCUPATION (CLASS C4) TO 7 PERSON 7 BEDROOM HOUSE IN MULTIPLE OCCUPATION (SUI GENERIS)

Application Submitted By:

Thorns Young Ltd
FAO Mr Sam Appleton

On behalf of:

Mr Abhai Pandya

RDD: 10th March 2017

LDD: 18th May 2017

SUMMARY OF MAIN ISSUES

The determining issues for this application relate to the suitability of the proposed HMO 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 in respect of SPA mitigation, car and cycle parking.

The site

This application relates to a two-storey mid-terraced dwellinghouse that is located on the south side of Montgomerie Road just to the south of Winston Churchill Avenue.

The proposal

The applicant seeks permission for a change of use from house in multiple occupation (Class C4) to 7 person 7 bedroom house in multiple occupation (Sui Generis).

Planning history

There is no relevant planning history for this site.

POLICY CONTEXT

In addition to the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS12 (Flood Risk), PCS17 (Transport), PCS20 (Houses in Multiple Occupation) and PCS23 (Design and Conservation). The Parking Standards Supplementary Planning Document would also be a material consideration.

CONSULTATIONS

Private Sector Housing

This property would require to be licenced under Part 2, Housing Act 2004 and currently holds a licence for 7 persons. I therefore have no adverse comments to make.

REPRESENTATIONS

50 representations have been received objecting to the proposal on the grounds of:

- (a) community is already unbalanced by high concentrations of HMOs;
- (b) four similar applications were refused by planning committee in 2016 setting the precedent (27/80 Margate Road and 11/25 Baileys Road);
- (c) local services and utilities are unable to cope with the massive imbalance of HMO properties;
- (d) parking, refuse, noise, water/sewage are already massive issues that will be made worse by approving more HMO applications;
- (e) over approximately 60% of properties in this road and surrounding roads are already occupied as HMOs and this sui generis route is a back door for developers to get more people in;
- (f) high impact of HMOs blocks the housing market for first time buyers (families) and block residents who currently live there from selling their homes;
- (g) application is increasing population density, intensity and accelerating impact on residents;
- (h) change in policy is required; and,
- (i) granting inconsistent with policy PCS20 due to high numbers of HMO properties in road already.

COMMENT

The determining issues for this application relate to the suitability of the proposed HMO 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 in respect of SPA mitigation, car and cycle parking.

Principle of the use

Planning permission is sought for the use of the property as a seven person seven bedroom sui generis HMO. On behalf of the applicant, the property management company Universal Property has provided their management records for the property dating back to 2009. Whilst these records are not tenancy agreements, these provide sufficient evidence to confirm that the property has been continuously occupied by at least four persons since 1st November 2011. Council tax records are inconclusive.

On the balance of probabilities and in the absence of any sound conflicting evidence, it is considered that the property has a lawful use as a HMO within Class C4.

Having regard to the current lawful use as falling within Class C4 HMO or Class C3 (Dwellinghouse), the proposed change of the use to a larger HMO (Sui Generis) would not result in an overall change to the balance of uses in the context of the surrounding area and would therefore, be in accordance with policy PCS20 of the Portsmouth Plan and the supporting HMO SPD.

Standard of accommodation

The licensing process would ensure adequate fire safety measures and could provide assistance should the property not be managed appropriately. In addition, other legislation is available beyond the planning system to address concerns relating to any anti-social behaviour at the property.

In terms of internal living conditions, the property would benefit from the following size standards:

Bedroom	Bedroom Size
1	18.4m ²
2	7.83m ²
3	17.21m ²

4	11.73m ²
5	11.02m ²
6	9.52m ²
7	9.86m ²

Kitchen/dining area: 19.03m²

The City Council's Private Sector Housing Team has considered the submitted drawings and confirmed the property already holds a license for 7 persons and could not therefore make any adverse comments.

In light of the assessment of the accommodation above, it is considered that the proposed use of the property by seven persons would provide an adequate standard of living accommodation for future occupiers for a single person in each room.

Impact on residential amenity

The proposal involves the use of the lounge on the ground floor to provide an additional bedroom to create a 7 bed HMO. Whilst the accommodation of additional occupants would lead to a more intensive occupation of property that could result in the transmission of noise and disturbance to the adjoining occupiers, regard must be made to the lawful use of the property that allows occupation by up to six unrelated persons or by a family of an unrestricted size (by implementing its permitted development rights).

In considering an allowed appeal (October 2012) relating to this issue at 12 Beatrice Road (APP/Z1775/A/12/2177272) the Inspector stated that 'I do not consider that one additional resident would amount to an over-intensive use of the property. Having regard to the site's urban location and the density of housing in the area, such a small increase in occupancy would not have a significant impact on the intensity of activity in the surrounding area thereby affecting its character and appearance. Equally, an increase from six persons to seven would not result in a use demonstrably different from that already authorised. Any increase in activity, noise or disturbance is unlikely to be significant.'

A further allowed appeal (December 2012) relating to very similar issues at a property at 74 Telephone Road (APP/Z1775/A/12/2177629) stated that "the comings and goings, internal activity and resultant noise associated with one more person are not significant compared to the impact of the six that could reside in the property anyway". However, the Inspector did recognise that "if there were more than seven residents this would, of necessity, involve either the sharing of bedrooms or a significant reduction in the extent of the communal space to create additional bedrooms". The Inspector determined that "in these circumstances such a use would have an appreciably greater potential for resulting in undue noise and disturbance".

Having regard to comments received relating to over-intensification of the use and further imbalance the local community, the Planning Inspectorate following an appeal in September 2016 relating to 37 Margate Road (APP/Z1775/W/16/3159992) concluded that: "having regard to the site's urban location and the density of housing in the area, any increase in occupancy at the property derived from such a small increase in bedroom accommodation would not be materially discernible when considered in the context of the existing activity in the surrounding urban area. In reaching this conclusion I have carefully considered the representations from local residents, however, I am not persuaded that sufficient evidence has been submitted to substantiate that the proposed 1 additional bedroom, would result in material harm to their living conditions or unbalance the local community."

In light of the decisions above, it is considered that the occupation of the property by seven individuals rather than six would not result in any significant increase in noise and disturbance, and is unlikely to have a significant additional impact on the occupiers of adjoining or nearby properties.

Highways/Parking

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 the current lawful use of the property, the view of the planning Inspectors detailed above and the sites proximity to the city centre (within 1.2km) and its associated provisions of shops, services and transport facilities, it is considered that an objection on car parking standards could not be sustained. In previous applications, it has been considered that as a property already benefits from a lawful use as a HMO it would not be reasonable to impose conditions requiring the provision of cycle storage facilities.

Waste

Although the floor plans do not indicate a dedicated area for the storage of waste, the property benefits from an enclosed rear garden that could be used to store refuse/recycling materials. Given the current lawful use of the property within Class C4, it is considered that it would not be reasonable to impose conditions requiring refuse storage facilities.

Response to representations

A number of representations refer to the following decisions that were refused by the planning committee against officer recommendation. In these cases as highlighted below, costs were awarded against the council as decisions were considered unreasonable and not based on planning policy and the decisions have been allowed:

1. 80 Margate Road - allowed costs awarded (LPA ref. 16/01223/FUL; costs ref. APP/Z1775/W/16/3159993; appeal ref. APP/Z1775/W/16/3159993)
2. 11 Baileys Road - allowed costs awarded (LPA ref. 16/01209/FUL; costs ref. APP/Z1775/W/16/3159989; appeal ref. APP/Z1775/W/16/3159989)
3. 25 Baileys Road - appeal in progress (LPA ref. 16/01210/FUL; appeal ref. APP/Z1775/W/16/3159990)
4. 27 Margate Road - no matching records
5. 37 Margate Road - allowed costs awarded (LPA ref. 16/01211/FUL; appeal ref. APP/Z1775/W/16/3159992; costs ref. APP/Z1775/W/16/3159992)

It is also worth noting that 47 of the representations are duplicates of one another but the name of the objector and their email address is different.

Solent Special Protection Areas

The Conservation of Habitats and Species Regulations 2010 [as amended] and the Wildlife and Countryside Act 1981 place duties on the Council to ensure that the proposed development would not have a significant effect on the interest features for which Portsmouth Harbour is designated, or otherwise affect protected species. The Portsmouth Plan's Greener Portsmouth policy (PCS13) sets out how the Council will ensure that the European designated nature conservation sites along the Solent coast will continue to be protected.

The Solent Special Protection Areas Supplementary Planning Document (SPD) was adopted in April 2014. It has been identified that any development in the city which is residential in nature will result in a significant effect on the Special Protection Areas (SPAs) along the Solent coast. Paragraph 3.3 of the SPD states: 'Mitigation will generally not be sought from proposals for changes of use from dwellinghouses to Class C4 Houses in Multiple Occupation (HMOs) as there would not be a net increase in population. A change of use from a Class C4 HMO or a C3 dwellinghouse to a sui generis HMO is considered to represent an increase in population equivalent to one unit of C3 housing, thus resulting in a significant effect and necessitating a mitigation package to be provided'. The SPD sets out how development schemes can provide a

mitigation package to remove this effect and enable the development to go forward in compliance with the Habitats Regulations.

Based on the methodology in the SPD, an appropriate scale of mitigation would be calculated as £181. As a result, it is considered that with mitigation and payment through an agreement under S111 of the Local Government Act there would not be a significant effect on the SPAs. The requirement for this payment to secure mitigation would be both directly related to the development and be fairly and reasonably related in scale to the development.

RECOMMENDATION A: That delegated authority be granted to the Assistant Director of Culture and City Development to grant Conditional Permission subject to first securing a planning obligation or an agreement for payment of a financial contribution of £181 to mitigate the impact of the proposed residential development on the Solent Special Protection Areas.

RECOMMENDATION B: That delegated authority be granted to the Assistant Director of Culture and City Development to refuse planning permission if the agreement referred to in Recommendation A have not been secured within three weeks of the date of the resolution pursuant to Recommendation A.

RECOMMENDATION Subject to Legal Agreement(s)

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: Site Location Plan dated 09.03.2017 and Proposed Ground, First and Second Floor Plans ref. PG 1058 17 3 dated March 2017.

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.

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.

24 ST THOMAS'S STREET PORTSMOUTH PO1 2EZ

**RETROSPECTIVE APPLICATION FOR THE CONSTRUCTION OF FIRST FLOOR PORCH
(TO REPLACE EXISTING)**

Application Submitted By:

Richard Prentice

On behalf of:

Richard Prentice

RDD: 3rd April 2017

LDD: 13th June 2017

SUMMARY OF MAIN ISSUES

This application has been called to be determined by the Planning Committee at the request of Councillor Rob Wood.

Summary of main issues

The determining issues are whether the design of the porch relates appropriately to the recipient building, the impact on the amenity of the surrounding occupiers and the impact on the nearby heritage assets.

Site and Surroundings

This application relates to a dwelling which is located on the south western side of St Thomas's Street. The site is located to the rear of 21 and 23 St Thomas's Street within a cul-de-sac. The property is laid out so that the accommodation is on the first floor with garages for the surrounding properties on the ground floor.

To the west of the site is John Pounds Memorial Church and to the south of the site is 127, 128, 129, 131 Shakespeare Terrace which are Grade II listed buildings. The site is also located within 'Old Portsmouth' Conservation Area.

Proposal

The applicant seeks retrospective planning permission for the construction of a first floor porch that has replaced the existing porch, which had a small canopy with a width of 1.5m and a depth of 1m that opened out onto a steel staircase leading to the ground floor.

The replacement porch has the same depth as the previous porch at 1m but wider with a width of 2.3m to align with the front door. It has a height of 2.7m which is 0.4m higher than the previous porch. The porch has a grey fascia canopy on supporting wooden pillars. The replacement staircase is similar in appearance to the previous however, it includes more vertical railings (for safety reasons). The porch is slightly larger in scale compared to the previous porch canopy however, it is considered that this minor alteration that would have regard to the recipient property.

Planning History

The installation of balcony to first floor rear elevation with replacement access staircase to ground floor was granted planning permission in July 2016. (ref 16/00699/HOU). The first floor balcony and replacement staircase has planning permission it is only the porch over the permitted balcony this application seeks to regularise.

POLICY CONTEXT

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

The aims and objectives of the NPPF are also relevant in the determination of this application.

CONSULTATIONS

None.

REPRESENTATIONS

Two letters of representation have been received from local residents, raising objection on the following grounds:

- 1) loss of light;
- 2) does not preserve character and appearance of Conservation Area;
- 3) harm to heritage assets;
- 4) utilitarian appearance;
- 5) overlooking;
- 6) too large and bulky.

COMMENT

The determining issues are whether the design of the porch relates appropriately to the recipient building, the impact on the amenity of the surrounding occupiers and the impact on the heritage assets.

Design/Impact on heritage assets

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 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 proposal is located within the Old Portsmouth Conservation Area so therefore the impact that the proposal could have on the Conservation Area.

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. There is a number of Grade II listed buildings to the south of the site, therefore the impact on these heritage assets will be considered during the determination of this application.

The porch is considered to be of an appropriate size in relation to the existing dwelling. Whilst the porch has a modern appearance, the surrounding properties are 1950s properties with a more modern appearance in comparison to other properties within St Thomas's Street. Therefore, this contemporary design of the porch is considered to be acceptable in design terms and would preserve the character and appearance of the 'Old Portsmouth' Conservation Area and the setting of the nearby listed buildings.

Amenity

The porch has the same height and is positioned in the same location as the existing porch. Therefore it is not considered that the porch results in any significant impact on the surrounding residential occupiers. An objection has been raised from the occupiers to the rear (No 128 High Street), regarding loss of light and loss of outlook. However, there is a suitable separation distance of approximately 9m between the site and the No 128.

There is a suitable distance of approximately 8m between the property to the east (No 19) and 6m between the properties to the north (No 25 and No 23). Therefore, having regard to this separation distance and as the porch is slightly larger in scale than the existing porch, it is not considered to result in any significant impact on the surrounding occupiers.

RECOMMENDATION Conditional Permission

Condition

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: 100P1, 100P2, 202.P2, and 302.P2.

The reason for the condition is:

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

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.

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.

20 STANLEY AVENUE PORTSMOUTH PO3 6PN

CONSTRUCTION OF ADDITIONAL FIRST FLOOR STOREY TO GARAGE TO FORM HOME OFFICE

Application Submitted By:

Southern Planning Practice
FAO Mr Ian Donohue

On behalf of:

Mr B Galloway

RDD: 12th April 2017

LDD: 22nd June 2017

SUMMARY OF MAIN ISSUES

The determining issues in this application relate to the appropriateness of the design for an additional storey to an existing garage and whether such a proposal would have any significant impact on the amenities of the occupiers of surrounding properties.

Site and surroundings

A mid-terrace house occupies the site that is located on the southern side of Stanley Avenue in between the junctions with Highgrove Road and Cooper Road. The site runs parallel with Algiers Road and to the rear of the site is an accessway serving the garages/other outbuildings to nearby properties. No20 has a rear garden (excluding the garage) of some 8m. The adjoining property to the east has a longer garden at 10½m and two-storey garage with a mansard-style roof.

Proposal

The existing house has a single-storey garage at the end of the rear garden. It is designed with a flat-roof to a height of 2.7m, a width of 5.6m and a depth of 5.9m. The garage has the same width and depth as a neighbouring outbuilding to the east (No 22) also used as a garage.

An additional storey to the existing garage is sought by the applicant to accommodate a home office, for the use of the occupiers of No 20. The design of the additional storey is in a mansard-style with a hipped roof on 2½ sides to an overall height of 5m which would be 2.3m higher than the existing flat-roof garage. This would be the same height as the neighbouring two-storey outbuilding. The length and width of the garage would be unchanged. The flat-roof element of the mansard-style additional storey would incorporate a rooflight. The roof design of the south elevation, fronting onto the rear accessway, would be in a vertical plane and include a high level strip window just under 3m wide. The additional storey would be constructed of tile-hanging, to match the neighbouring outbuilding.

Planning history

There is no relevant planning history for this site.

POLICY CONTEXT

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

The aims and objectives of the NPPF would also be relevant for the determination of this application.

CONSULTATIONS

None.

The planning application is not of a type that requires a response from any consultees.

REPRESENTATIONS

One representation/deputation has been received from neighbouring occupiers raising objection on the following grounds:

- 1) overshadowing;
- 2) outbuilding will be used for builders store and workshop;
- 3) noise;
- 4) loss of privacy;
- 5) decrease property value; and,
- 6) increased traffic.

COMMENT

The determining issues in this application relate to the appropriateness of the design for an additional storey to an existing garage and whether such a proposal would have any significant impact on the amenities of the occupiers of surrounding properties.

Many of the properties in Stanley Avenue have garages located to the rear and these are predominantly single-storey outbuildings. The neighbouring house at No22, however, has a two-storey garage/outbuilding. The garages are accessed either through the rear gardens of the houses or along a narrow accessway parallel with Stanley Avenue to the rear of the houses, accessed via Highgrove Road.

The proposal would, by reason of its siting, size and appearance, be considered an appropriate addition that would have the same height, alignment and matching tile-hanging as the similar adjoining structure to the east (No22). It would also with the neighbouring garage to the west (No 18).

No20 has a rear garden of some 8m between the house and garage. The adjoining property to the east has a longer garden at 10½m between the house and two-storey garage. Therefore, taking into consideration these separation distances between the nearest habitable rooms of the neighbouring properties, it is not considered that the proposed additional storey would result in any significant impact in terms of increased sense of enclosure, overshadowing and loss of light to the occupiers of the neighbouring properties.

The proposed insertion of a rooflight and high level strip window on the rear elevation would only face onto the accessway. There would be no windows facing north directly into the neighbouring houses and gardens to properties in Stanley Avenue. There would be a distance of around 18m from the nearest house in Algiers Road and due to intervening boundary fencing and other outbuildings, it is not considered that the additional storey would be widely visible from the properties in Algiers Road. The proposal is not considered to give rise to a loss of privacy to the neighbouring occupiers.

Objection has been raised that the garage/home office would be used for storing building materials and as a workshop for a construction business. In addition, concerns are raised that this development would cause noise and dust and increased traffic movements within the rear accessway. Due to the narrow width of the accessway, it would be difficult for vehicles to access the site via the rear accessway. Also, a suitably worded planning condition would be imposed to ensure that the additional storey shall only be used as a home office by the occupiers of No20. Should the applicant wish to use the outbuilding for any other purposes which are not ancillary to the house at No20, then it would represent a materials change of use requiring planning permission.

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: SITE LOCATION PLAN 1:1250 and SPP017/4.3/1.
- 3) The additional first floor for use as a home office hereby permitted shall only be used for domestic purposes that shall remain incidental and ancillary to the residential use of the existing house at No20 Stanley Avenue.
- 4) No development shall commence until details, including samples where appropriate, of the types and finish of all external materials to be used has been submitted to and approved by the Local Planning Authority in writing. The development shall thereafter be carried out using the approved materials and finishes.
- 5) The strip window on the southern elevation shown on drawing 'SPP017/4.3/1' shall be positioned no lower than 1.7 metres above ground level in accordance with the details submitted to and approved by the Local Planning Authority unless otherwise agreed in writing and shall be permanently retained in that condition.

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 protect the amenities of occupiers of adjoining and nearby properties in accordance with policy PCS23 of the Portsmouth Plan.
- 4) To ensure the development is finished in suitable materials that will relate appropriately to the wider street scene in accordance with Policy PCS23 of the Portsmouth Plan.
- 5) To protect the privacy of the surrounding occupiers and to prevent overlooking in accordance with PCS23 of the Portsmouth Plan.

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.

52 CHELSEA ROAD SOUTHSEA PO5 1NJ**CONSTRUCTION OF SINGLE STOREY EXTENSION TO REAR ELEVATION****Application Submitted By:**

Alex Shute

On behalf of:

Alex Shute

RDD: 24th April 2017**LDD:** 10th July 2017**SUMMARY OF MAIN ISSUES**

This application has been called to be determined by the Planning Committee at the request of Councillor Hugh Mason.

Summary of main issues

The determining issues in this application relate to the design of the proposal, whether it would have any significant impact on the amenities of the surrounding occupiers. Also whether it would preserve or enhance the character and appearance of the 'Campbell Road' Conservation Area.

Site and Surroundings

This application relates to a semi-detached property which is located on the eastern side of Chelsea Road opposite the junction with Victoria Grove and to the north of the junction with Albert Grove. The site is located within the 'Campbell Road' Conservation Area. The surrounding area is characterised by similar Victorian style residential terraced and semi-detached properties.

Proposal

The applicant seeks permission for the construction of a single storey rear extension. The extension is subject to an enforcement enquiry as the works have already commenced. The applicant has already constructed and rendered the extension.

The existing property previously had a lean-to extension which accommodated a dining room, kitchen and WC it had a height of 3.5m, a depth of 2.5m and a width of 3.5m.

The applicant has since removed this extension and replaced it with a single storey flat roof extension. It has a height of 2.5m and a depth of 5.4m. The extension has two windows on the north eastern elevation and a set of French doors on the rear elevation. It is finished in white render to match the recipient building.

Planning History

There is no relevant planning history for this application.

POLICY CONTEXT

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

The aims and objectives of the NPPF are also relevant in the determination of this application.

CONSULTATIONS

None.

REPRESENTATIONS

Three representations have been received from a local resident raising objection on the grounds of:

- 1) extension is not in-keeping with surrounding area;
- 2) overlooking; and,
- 3) overbearing.

COMMENT

The determining issues in this application relate to the design of the proposal, whether it would have any significant impact on the amenities of the surrounding occupiers. Also whether it would preserve or enhance the character and appearance of the 'Campbell Road' Conservation Area.

Design

The extension, by reason of its siting, size and appearance, is considered to be an appropriate addition. It has a slightly lower height than the previous lean-to as the proposal is of a flat roof design. The proposal is longer in length than the previous extension by 2.9m taking it from a 2.5m lean to a 5.4m flat roof extension. The extension incorporates windows on the northern elevation to optimise natural light to the kitchen with the proposed French doors being on the rear eastern elevation. The extension is larger than the previous extension however, there are other examples of large flat roofed rear extensions within Chelsea Road. The extension is constructed of white render to match the recipient building which is considered to relate appropriately to the recipient building and the other rendered properties within the terrace.

Impact on Conservation Area

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 proposal is located within the 'Campbell Road' Conservation Area, so therefore the impact that the proposal has on the Conservation Area will be considered when determining this application.

The 'Campbell Road' Conservation Area guidelines state that where extensions are permitted they should match the existing original property in respect of design, materials and detail. The size of the extension should not overpower the original building size. The extension relates appropriately to the recipient building in respect of the design, materials and detail. Whilst, it is larger than the existing property, it is of a similar size of the other extensions within the surrounding area and is not considered to overpower the original building size. It is considered that the extension is acceptable in design terms and preserves the character and appearance of the 'Campbell Road' Conservation Area.

Impact on residential amenity

The extension projects further than the adjoining property to the south being No 50. The flat roof design leads to a reduced height in part however the length of the proposal to the southern boundary is increased. As No 50 is on the southern side the proposal it is considered that the extension does not lead to any significant impact on the residential amenities in terms of loss of light or overshadowing.

There is a separation distance of approximately 5 metres and a boundary fence between the occupiers to the north (No 54). The existing dining room has a window orientated to the light well between No 52 and No 54. The proposal would provide a further 2 windows to this light well from the proposed kitchen. Due to the nature of the existing boundary enclosure there is a degree of overlooking between the proposed site and No 54. This overlooking could be resolved by improvements to the boundary enclosure and as such it is not considered necessary to control the glazing materials by way of a planning condition. In the event Members consider obscure glazing necessary to overcome the harm to No 54 a condition could be imposed.

There would be a set of French doors on the rear eastern elevation which is orientated to the private rear garden of the subject property. These proposed French doors due to their orientation on the site would not give rise to any impacts on the residential amenity of neighbours.

There is a suitable separation distance of approximately 35 metres between the nearest occupiers to the rear of the site in Goodwood Road. Therefore, it is not considered that the proposal has any significant impact on the residential amenities of the occupiers of Goodwood Road.

Conclusion

This planning application has been submitted as a result of development being undertaken without planning permission. In arriving at a considered decision, the Local Planning Authority needs to form a view as to whether it would be expedient to enforce against the development and require its removal. Having had regard for the design, orientation, siting of windows and selection of materials it is considered that the proposal is capable of support.

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: SITE LOCATION PLAN 1:1250, and 1702 1.100.

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.

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.

102 TANGIER ROAD PORTSMOUTH PO3 6PG

CONSTRUCTION OF FIRST FLOOR REAR EXTENSION ABOVE EXISTING SINGLE-STOREY REAR EXTENSION

Application Submitted By:

HRP Architects
FAO Mr Mark Holman

On behalf of:

Mr Gordon Miller

RDD: 8th May 2017

LDD: 4th July 2017

SUMMARY OF MAIN ISSUES

The main issues to be considered in the determination of this application are whether the proposed extension is of an acceptable design in relation to the recipient building and the adjoining properties, and whether it would have any significant adverse impact on the amenity of the adjoining occupiers.

The Site

This application relates to a 2-storey mid-terraced dwelling located to the southern side of Tangier Road, opposite its junction with Highgrove Road. The property is set back from the highway by a small front forecourt with a larger garden to the rear backing onto Baffins Pond. A series of rear projections extend from the main dwelling into the rear garden. The site is located within the indicative flood plain (Flood Zone 3).

Proposal

Planning permission is sought for the construction of first floor rear extension above the existing single-storey rear extension.

Relevant planning history

It was brought to the attention of the Local Planning Authority that a first floor extension had been built unlawfully above an existing ground floor extension in September 2011. An Enforcement Notice requiring the removal the unauthorised first floor rear extension from the building was issued and served in March 2012.

A retrospective application for the construction of a first floor rear extension over an existing single-storey rear projection, and the construction of a front porch was refused in April 2012. The reasons for refusal were as follows:

1. The first floor rear extension, by virtue of its unsympathetic and incongruous design, appear as an unduly prominent and visually obtrusive feature out of character with and harmful to the visual amenities of the street scene. The proposal is therefore contrary to the principles of good design set out in the National Planning Policy Framework and to policy PCS23 of the Portsmouth Plan.

2. The first floor rear extension, by virtue of its scale, massing and siting on the common boundary with number 100 Tangier Road, has an overbearing relationship resulting in an unacceptable sense of enclosure to the detriment of the living conditions of the occupiers of that dwelling. The proposal is therefore contrary to policy PCS23 of the Portsmouth Plan.

A subsequent appeal against the decision of the Local Planning Authority was partially allowed in respect of the front porch. However, it was dismissed in respect of the first floor rear extension.

In light of the Inspector's decision, and following the continued non-compliance with the Enforcement Notice at the site, Portsmouth City Council sought prosecution proceeds against the applicant through Portsmouth Magistrates court on two separate occasions.

An injunction order has subsequently been issued by the District Judge Stewart of Winchester Magistrates Court requiring the applicant to fully remove the unauthorised development at first floor level by no later than 3rd July 2017.

POLICY CONTEXT

In addition to the National Planning Policy Framework, the relevant policies within the Portsmouth Plan would include: PCS12 (Flood Risk) and PCS23 (Design and Conservation).

CONSULTATIONS

None.

REPRESENTATIONS

None received.

This application has been brought to the Planning Committee for determination as a result of the ongoing enforcement issues at the site and at the request of Ward Members Councillor Lynne Stagg and Darren Sanders.

COMMENT

The main issues to be considered in the determination of this application are whether the proposed extension is of an acceptable design in relation to the recipient building and the adjoining properties, and whether it would have any significant adverse impact on the amenity of the adjoining occupiers. It is not considered that the proposal would result in an increased risk of flooding at the site.

As highlighted above, there are on-going planning enforcement matters at the application site relating to the unauthorised construction of a larger first floor extension above an earlier single-storey extension. There are similarities between the unauthorised structure at the site and that proposed by this application, and the previous decisions of both the Local Planning Authority (LPA) and the Planning Inspector will be relevant to the determination of this planning application. However, the current planning application (17/00796/HOU) must be considered on its individual merits and all matters relating to compliance with the existing Enforcement Notice at the site should be offered limited weight.

Design

Planning permission is sought for the construction of a first floor extension above an existing ground floor flat roof extension positioned to the western half of the rear (south) elevation. This would measure approximately 3.6 metres in width and would project 1.3 metres from the rear

wall of the original dwelling (approximately half the depth of the ground floor extension) along the boundary with No.100 Tangier Road. The extension would be completed with a flat roof measuring 4.9 metres at its highest point, sitting just below the eaves of the original roof, and would be finished in painted render. A single window would be positioned within the south facing elevation.

When considering the previous application at the site which sought retrospective permission for the construction of a larger first floor extension over the full depth (2.6m) of the ground floor extension (APP/Z1775/D/12/2176530), the Planning Inspector made the following observations in respect of design: 'No.102 is a two-storey dwelling on the southern side of Tangier Road, and is part of a terrace of six houses close to Baffins Pond. Its immediate neighbour to the west is No.100, an end-of-terrace dwelling which already has a flat-roofed two-storey rear extension that dates from the mid-1960s. The extension for which permission is now sought is constructed above an existing single-storey rear extension. Finished in cream render, it matches the finish of this house and other neighbouring properties, and its fenestration is not dissimilar to that of the existing rear elevation. However, the first-floor element is a large, bulky addition that is over 3.5m wide, with a flat roof that reaches the eaves height of the main dwelling. I consider the overall scale of the combined ground-floor and first-floor extension to be simply too large for the existing house; the resulting structure constitutes a bulky and disproportionate extension to No. 102, which is detrimental to the character and appearance of the terrace as a whole'.

Whilst raising concerns over the scale of the larger extension, the Planning Inspector did not raise any specific concerns over its flat roof design, use of materials or the pattern of fenestration. As such it is considered that an extension of a similar design but with a reduction to its scale and bulk could be acceptable in design terms.

Although not of the highest possible design, it is considered that as a result of its limited depth (1.3m) and position adjacent to a similar larger flat roofed extension to the rear of No.100 Tangier Road, the extension now proposed is not considered to be significantly harmful to the overall character of the recipient building or the wider terrace in terms of scale or bulk and an objection of design grounds could not be sustained. As a result of its limited depth and position to the east of the neighbouring structure, public views of the extension from Baffins Pond would also be limited and the structure would not amount to a visually obtrusive or discordant feature within the street scene. The proposal does therefore, overcome the previous concerns of the LPA and the Planning Inspector in respect of design.

Impact on Amenity

In considering the previous application at the site for the retention of the existing unlawful structure, the Planning Inspector made the following observation in respect of residential amenity: 'The single-storey rear extension was set in from the boundary with No.100 by around 0.1m, and the first-floor extension continues the flank wall of this existing extension upwards. The rear elevation of the original dwelling at No.100 has ground-and first-floor windows close to the boundary with No.102, and as a consequence of the development for which permission is now sought, these openings lie between two two-storey high walls which protrude, at very close range, more than 2m forward of the plane of the windows. Since the rear of the terrace faces south, it is fair to note that both windows would still receive a considerable amount of daylight and sunlight. But in my judgment their outlook would be significantly impaired by the addition of an adjoining first-floor extension at No.102, the considerable bulk and height of which would appear oppressive and obtrusive in views from these windows. I therefore find that the first-floor rear extension conflicts with the aims of Policy PCS23 of the Portsmouth Plan, which among other things seeks to ensure that new development is well designed and is of a scale appropriate to its context, and aims to protect amenity and secure a good standard of living environment for neighbouring occupiers'.

The current application reduces the length of the extension proposed from 2.6 metres to 1.3 metres. From the upper floor window within the rear elevation of No.100 (south facing bedroom)

the reduced extension would still be perceptible from certain angles within the room the window would serve. However, as a result of its modest projection along the boundary, it is considered that the resultant structure would not appear overly oppressively or obtrusive in views from this window in the way that the previous proposal did.

From the ground floor window within the rear elevation of No.100 (south facing living/dining room), outlook towards the east and west is restricted by the presence of the rear projection at No.100 and the presence of the existing ground floor extension at the application site. The presence of the larger unauthorised structure at first floor level is currently visible from this window and does result in an increased the sense of enclosure. However, as a result of the reduced depth of the extension proposed, it is not considered that the resultant structure would be significantly intrusive in views from this window and outlook would remain restricted by the presence of the ground floor extension which is lawful.

As highlighted by the Inspector, the rear windows of No.100 face towards the south and no concerns were raised in respect of the amount of daylight and sunlight entering them. As the current proposal seeks to significantly reduce the depth of the first floor extension, it is considered that this relationship would be improved from that previously considered.

To the east, the proposed extension would be set in from the boundary with No.104 Tangier Road by approximately 2.3 metres with intervening structures at ground floor level. As a result of its modest depth, separation from the boundary and southerly orientation, it is considered that the proposal would not have a significant adverse impact on the amenity of the adjoining occupiers to the east.

Conclusion

Whilst the merits of the existing unauthorised extension at first floor level have been tested by both the Local Planning Authority and the Planning Inspectorate and found to be unacceptable, it is considered that the reduction in depth proposed by the current application would address previous concerns in respect of both design and amenity.

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: 8258-10 dated May 2017.
- 3) Prior to first use/occupation of the first floor extension hereby permitted, all elevations at first floor level shall be completed with a rendered and painted finish.

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.

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.

Assistant Director of Culture and City Development
20th June 2017

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